



Kansas Real Estate Appraisal Board  
2006  
Spring Newsletter



May, 2006

No. 2

**CAN A REVIEWER FILE A COMPLAINT?**

The Board has received several questions with regard to a reviewer filing a complaint based on a report they have reviewed. To address this issue, the Board went to The Appraisal Foundations FAQ 2006 Edition, Q & A #182:

**Q.** Is a reviewer permitted by USPAP to file a complaint with a State Appraiser Board without the consent of his or her client?

**A.** It is the opinion of the ASB that a reviewer may, absent any higher precedent law or regulation, file a complaint with a State Appraiser Board without the consent of his or her client.

The Confidentiality section of the ETHICS RULE states: *“An appraiser must protect the confidential nature of the appraiser-client relationship.”*

The Confidentiality section continues: *“An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; **state enforcement agencies** and such third parties as may be authorized by due process of law;...”* (Bold added for emphasis)

In recent correspondence with John Brennan, Director of Research and Technical Issues for The Appraisal Foundation, Mr. Brennan stated “USPAP does not specifically require an appraiser to report an appraiser who does not comply with USPAP. States may have laws that mandate their licensed and certified appraisers to report others, but that’s not found in USPAP.”

“That issue is not always clearly understood, at least partially because of the following

language that appears in the Conduct section of the ETHICS RULE:

“An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.”

“However, it is not the intent of the above language to require appraisers to report others who are not in compliance with USPAP. Appraisal reports that are not fraudulent or misleading may still not be in compliance with USPAP.”



INSIDE THIS ISSUE	
2008 CHANGES AFFECT MORE THAN JUST PRE-LICENSE .....	2
TOP 12 PROBLEM AREAS IDENTIFIED BY ASC .....	2-3
WHAT IS A “FEDERALLY RELATED TRANSACTION” .....	3
APPRAISER FEE SCHEDULE VIOLATES ETHICS RULE.....	4
KREAB POLICY STATEMENT .....	4-5
KS PASSES AVM BILL .....	5
HOW COMPLAINTS ARE RECEIVED .....	5-6
INVESTIGATION OF COMPLAINTS: THE HEARING PROCESS .....	6-7
CONTENTS OF A WORKFILE .....	7
CREATING A WORKFILE AFTER REPORT DELIVERY.....	7
USPAP Q & A .....	8-10
DISCIPLINARY ACTIONS.....	11-13
CONTACT INFORMATION.....	13

## 2008 CHANGES AFFECT MORE THAN JUST PRE-LICENSE REQUIREMENTS

On February 20, 2004, the Appraiser Qualifications Board adopted the Real Property Appraiser Qualification Criteria to be effective on January 1, 2008. While the changes to the qualifying requirements for the different license/certification levels has been well documented, this criteria change will also affect the Scope of Practice for the State Licensed and Certified Residential classifications, as well as the criteria specific to continuing education for all license/certification levels. A summary of those changes is shown below:

### SCOPE OF PRACTICE

K.A.R. 117-2-4. Licensed classification, scope of practice. The 2008 criteria change will modify this regulation, deleting subsection (c), which currently states "The licensed classification may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institutions regulatory agency, other agency or regulatory body." This would prohibit the state licensed appraiser from working outside of their scope of practice without supervision by an appraiser whose scope of practice would cover that property.

K.A.R. 117-4-4. Residential classification, scope of work. The 2008 criteria change will modify this regulation, deleting subsection (c), which currently states "The residential classification may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institutions regulatory agency, other agency or regulatory body." This would prohibit the certified residential appraiser from working outside of their scope of practice without supervision by an appraiser whose scope of practice would cover that property.

### CRITERIA SPECIFIC TO CONTINUING EDUCATION

While the hours required each renewal and the USPAP requirement will remain the same, a limit will be placed on the number of hours that will be granted for participation, other than as a student, in appraisal education processes and programs. The 2008 criteria change will limit the hours granted

for instructing a course, program development, authorship of textbooks or similar activities to one-half of an individual's continuing education. Credit for instructing any given course or seminar will only be awarded once during each 2-year education cycle.

The full text of the Appraiser Qualification Criteria changes may be accessed on the Board's website at [www.kansas.gov/kreab](http://www.kansas.gov/kreab) or at The Appraisal Foundation's website at [www.appraisalfoundation.org](http://www.appraisalfoundation.org).



## TOP 12 PROBLEM AREAS IDENTIFIED BY THE ASC

The Appraisal Subcommittee, which was established by Title XI of FIRREA in 1989, oversees the activities of the individual states and The Appraisal Foundation. One of those functions is a field review, every three years, of each state's appraisal regulatory agency for compliance with the minimum requirements of the Appraiser Qualifications Board.

At the Association of Appraiser Regulatory Officials' (AARO) 2006 Spring Conference in San Antonio, TX, a panel of Appraisal Subcommittee examiners revealed the most significant problem areas identified as a result of their recent field reviews of state appraiser regulatory agencies.

1. Accepted exam results that were over two years old;
2. failed to incorporate into their statutes or regulations the Appraiser Qualifications Board (AQB) 2003 certification criteria changes regarding the 7 and 14-hour National USPAP courses;
3. accepted affidavits for qualifying education and/or experience;
4. accepted affidavits for CE without having a reliable means of validating them;
5. awarded education credit for courses with no appraisal-related content;
6. approved educational offerings by provider rather than by course;

7. Approved distance education courses that did not conform to the distance education provisions of the criteria;
8. Deficiencies related to the processing of complaints, such as failing to investigate and resolve complaints in a timely manner consistent with Title XI and Policy Statement 10;
9. Delayed disposition of complaints due to a State Board and/or Commission meeting too infrequently and/or regularly failed to achieve a quorum;
10. Failed to submit information regarding disciplinary actions taken to the ASC for inclusion on the National Registry;
11. Failure to issue temporary practice permits on an assignment basis;
12. More than 5 business days to issue a temporary practice permit;
13. Issuing permits for less than 6 months and not providing appraisers with an easy way to renew or extend permits; and
14. Charging a temporary practice fee exceeding \$150 per assignment.



### WHAT IS A "FEDERALLY RELATED TRANSACTION"?

Source: FAQ 2006 Edition by The Appraisal Foundation

*In 2001, STATEMENT No. 10 (SMT-10), Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction, was adopted by the ASB for inclusion in USPAP. SMT-10 was a joint effort between the Appraisal Standards Board and an Interagency Work Group comprised of representatives from the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and the Office of Thrift Supervision. Since its introduction, several questions have arisen. SMT-10 addresses banking regulatory requirements. Therefore, the ASB posed questions to the Interagency Work Group for the regulatory answer to these questions.*

**Q.** STATEMENT No. 10 (SMT-10) only applies to Federally Related Transactions. Can the Interagency Work Group provide guidance on how an appraiser can determine if a transaction is, or is not a Federally Related Transaction? More directly, what is a Federally Related Transaction and do certain entities (FHA, VA, Fannie Mae & Freddie Mac) have exemptions in this regard?

**A.** "A real estate-related transaction and a federally related transaction are legal terms prescribed by law<sup>1</sup> and defined in the agencies' appraisal regulations. In general, our appraisal regulations apply to real estate-related financial transactions entered into by the agencies or by federally regulated financial institutions<sup>2</sup>. However, not all real estate-related transactions are considered federally related transactions. A real estate-related financial transaction is a federally related transaction unless the transaction is specifically exempted from the agencies' appraisal regulations.

Our appraisal regulations list specific categories of transactions that do not require the services of an appraiser and, therefore, are not considered to be federally related transactions. Under the agencies' appraisal regulations, federally regulated institutions have the responsibility to determine if a transaction meets the legal definition of a federally related transaction or is otherwise exempted. If a real estate-related transaction exceeds \$250,000, the appraiser may presume that it is a federally related transaction, unless specifically notified by the institution that it is not a federally related transaction.



<sup>1</sup> The law refers to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

<sup>2</sup> This includes commercial banks, savings and loan associations, credit unions, bank holding companies, and the nonblank subsidiaries of bank holding companies.

## APPRAISER'S FEE SCHEDULE VIOLATES ETHICS RULE

It has been reported by Kentucky that some clients are including an "appraiser's fee schedule" with their Service Agreement, basing their standard fees to appraisers on the value of the property, location and property type.

Acceptance and completion of an assignment under those terms would be considered a violation of the ETHICS RULE of the Uniform Standards of Professional Appraisal Practice (USPAP). Specifically, the Management Section, page 8 of the 2005 edition of USPAP, which advises:

*"It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:*

- 1. the reporting of a predetermined result (e.g., opinion of value);*
- 2. a direction in assignment results that favors the cause of the client;*
- 3. **the amount of a value opinion;***
- 4. the attainment of a stipulated result; or*
- 5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose."* (emphasis added)

Also, any real property appraiser who accepts the terms outlined in any such fee schedule, who is paid according to terms and signs a report certification, would be considered to have violated the following Standards Rule 2-3 language:

*"Standards Rule 2-3 (This Standards Rule contains binding requirements from which departure is not permitted.)*

*Each written real property appraisal report must contain a signed certification that is similar in content to the following form:*

*"I certify that, to the best of my knowledge and belief:*

*...my compensation for completing this assignment is not contingent upon the devel-*

*opment or reporting of a predetermined value or direction in value that favors the cause of the client, **the amount of the value opinion**, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal..."* (emphasis added)



## KREAB POLICY STATEMENT

Re: Publication of Disciplinary Actions  
ADOPTED: MARCH 31, 2006

The purpose of the Kansas Real Estate Appraisal Board is protection of persons and entities that use real estate appraisals. Those users have an interest in being informed when disciplinary action has been taken by the Board against a real property appraiser's license or certificate.

The Board also recognizes that persons licensed or certified by the Board have an interest in not being identified for more than a reasonable amount of time as having practiced in an incompetent, unprofessional or dishonorable manner.

Therefore, it is the policy of the Board that all final disciplinary actions will be published on the Board's website and in the Board's newsletter. Disciplinary actions authorized by law are: revocation, suspension, limitation, and condition of a license or certificate, censure of the appraiser, and/or a civil fine not exceeding \$1,000 per violation.

The following disciplinary actions will be published on the Board's website and in the Board's newsletter:

- revocation of a license or certificate
- suspension of a license or certificate
- limitation of an appraiser's practice
- any condition with which an appraiser is required to comply
- assessment of a civil fine in the amount of \$500 or over.

The following disciplinary actions will not be published on the Board's website or in the Board's newsletter:

- censure of an appraiser

- assessment of a civil fine in an amount under \$500

Except for revocation of a license or certificate, disciplinary actions will remain on the Board's website for three (3) years following an appraiser's successful completion of any suspension, limitation, condition and/or payment of a civil fine. Revocations will remain on the Board's website indefinitely.

Appraisers should be aware that the Appraisal Subcommittee requires **all** disciplinary actions to be reported for inclusion on the National Registry. However, other than state regulatory boards, no one can access information regarding National Registry disciplinary actions other than revocations, suspensions, and voluntary surrenders in lieu of disciplinary action.



### KANSAS PASSES AVM BILL FOR NON-PURCHASE MONEY TRANSACTION

As of July 1, 2006, Kansas lenders will be allowed to use an automated valuation models in the case of non-purchase money real estate transactions. In addition, the bill also prohibits lenders from disclosing to a borrower the preferred value of real estate or the amount of a real estate loan.

#### House Bill 2735

An Act relating to real estate loans concerning the appraised value; amending K.S.A. 2005 Supp. 16a-1-301 and repealing the existing section. (6)(c) in the case of non-purchase money real estate transactions the estimated market value as determined through an automated valuation model acceptable to the administrator. As used in this paragraph (c), "automated valuation model" means an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristic and historical home price appreciations. Automated valuation models must be validated by an independent credit rating agency. An automated valuation model provider shall not accept a property valuation

assignment when the assignment itself is contingent upon the automated valuation model provider reporting a predetermined property valuation, or when the fee to be paid to the automated valuation model provider is contingent upon the property valuation reached or upon the consequences resulting from the property valuation assignment.

New Sec. 2 No lender, as defined in K.S.A. 58-2237 shall disclose to an appraiser or other person engaged to determine the appraised value of real estate, the amount of a proposed real estate loan or the preferred or required value of any real estate intended to secure such loan.

The entire text of bill can be obtained at [www.kslegislature.org/bills/2006/2735.pdf](http://www.kslegislature.org/bills/2006/2735.pdf)



### HOW COMPLAINTS ARE RECEIVED

The Board receives complaints from many sources, which include the client, the property owner, reviewers, HUD and appraisers. A complaint may also be filed against an appraiser by the Board. It is a common practice of the Board to file a complaint against a supervising appraiser when an applicant's experience is denied based upon reviews performed on the reports.

Anonymous complaints are accepted by the Board; however, before the Board will proceed with investigating a complaint, they request a copy of the report and evidence of USPAP violations or other violations relating to the Appraisers Act. A copy of an appraisal report or other documentation that contains clear errors may be treated as a written complaint. All complaints sent to the Board must be in writing.

During the investigative process, a complaint is considered to be confidential and information pertaining to the complaint is not considered an open record. After a complaint has been adjudicated, certain information concerning the complaint becomes an open record and may be obtained from the Board by submitting a request in writing.



## PUBLICATION OF DISCIPLINARY ACTIONS

Effective March 31, 2006, the Board adopted a Policy Statement regarding the publication of disciplinary actions on the Board's website and quarterly newsletter. Prior to that date, publication of disciplinary actions was considered a negotiating tool to be used when settling complaints, therefore, not all disciplinary actions taken prior to March 31, 2006 were published in the newsletter or on the Board's website. However, all disciplinary action taken by the Board **must be reported** to the Appraisal Subcommittee and added to the Federal Registry. In order to find out if an appraiser has had disciplinary action, but is not listed on our website, please contact the Board office.

### SUMMARY OF COMPLAINTS RECEIVED AND DISCIPLINARY ACTIONS TAKEN BY THE BOARD 07.01.2004 THRU 06.30.2005

Between July 1, 2004 and June 30, 2005, the Board received 56 new complaints.

- Complaints Dismissed: 18
- Consent Agreements 20
- Requested Hearing 6
- Settlement Option Hearing 1
- Revoked 5
- Settlement Pending 3
- Did Not Renew 1
- Letter of Censure 1
- Pending Outside Investigation 1

The Board currently has 45 open cases. Most are still in the investigative stage; however, approximately 10 will be set for hearing.



### ADDRESS CHANGE?

DON'T WAIT UNTIL RENEWAL TO CHANGE YOUR RESIDENCE, MAILING OR BUSINESS ADDRESS. K.S.A. 58-4114 REQUIRES THAT THESE CHANGES BE REPORTED, IN WRITING, IMMEDIATELY UPON THE MOVE.

## INVESTIGATION OF COMPLAINTS: THE HEARING PROCESS

BY: CAMILLE NOHE,  
ASST. ATTORNEY GENERAL

Disciplinary matters which cannot be settled by a Consent Agreement and Order are referred for prosecution and a hearing is set. In this event, the United States Constitution guarantees a licensed or certified appraiser a hearing by a fair and impartial hearing panel. It is for this reason that Board members who serve on the Investigative Committee never serve on the Board's Hearing Panel.

Like a jury in a civil or criminal case, the (usually) three Board members who decide a case are provided with very limited information about the case prior to the hearing. Hearing Panel members are given a copy of the charging document called a Petition. This document, filed by the Board's prosecuting attorney, contains the factual allegations and the laws and USPAP violations that are charged. A copy of the Petition is also mailed to the appraiser, often with a Notice of Hearing. If the appraiser files an answer or response to the matters charged in the Petition, a copy is provided to the Hearing Panel members.

In many cases the appraiser retains a lawyer in order to defend against the allegations. Whether or not a lawyer represents the appraiser, he or she has a right to obtain copies of any documents or other evidence that the prosecutor intends to present at the hearing. In some cases, the appraiser's lawyer takes the deposition of the prosecutor's expert witness in order to obtain a preview of that witness' testimony and the basis for the expert's opinions. The appraiser may also decide to hire an expert witness as a part of the defense.

The hearing is conducted much like a trial although the rules of evidence and procedure are somewhat relaxed. The hearing can last anywhere from ½ day to 2 days, depending on how many counts are charged, the complexity of the legal and factual issues, and how many witnesses testify. The Hearing Panel listens to all the testi-

mony and reviews all the evidence that is admitted. At the conclusion of the hearing, the Hearing Panel deliberates and decides whether clear and convincing evidence has been presented to establish the charges. The Hearing Panel's decision, called a Final Order, is mailed to the appraiser and the prosecutor. If the appraiser is dissatisfied with the decision, the appraiser may appeal to district court for judicial review.



### CONTENTS OF A WORKFILE

Source: FAQ 2006 Edition © by The Appraisal Foundation

Q. What information must be retained in an appraiser's workfile?

A. An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The Record Keeping section of the ETHICS RULE states:

*The workfile must include:*

- *the name of the client and the identity, by name or type, of any other intended users;*
- *true copies of any written reports, documented on any type of media;*
- *summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and*
- *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.*

The appraiser's assignment workfile serves several purposes. As in many other professions, the discipline of enforcement by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a workfile aids the appraiser in handling questions from the client or an in-

tended user subsequent to the date of the report.

An appraiser's assignment workfile preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations.



### CREATING A WORKFILE AFTER REPORT DELIVERY

Source: FAQ 2006 Edition  
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Q. I was recently told that USPAP allows appraisers to wait and create a workfile after the report has been delivered to the client for an appraisal, appraisal review, or appraisal consulting assignment. Is this true?

A. No. The Record Keeping section of the ETHICS RULE states:

*"A workfile must be in existence **prior to and contemporaneous with the issuance of a written or oral report.** A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report."* (Bold added for emphasis)

It is advisable to create a workfile as soon as an agreement between an appraiser and a client results in an assignment.



### CONTINUING EDUCATION

ONLY COURSES COMPLETED ON OR AFTER JULY 1, 2005 MAY BE USED TO MEET YOUR 2006 RENEWAL REQUIREMENT. ALL CE MUST BE COMPLETED PRIOR TO SUBMITTING YOUR RENEWAL.



## USPAP Q & A

What is the purpose of an appraiser's work-file?

**A.** An appraiser's assignment work-file preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations.

The appraiser's assignment work-file also serves other purposes. As in many other professions, discipline by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a work-file aids the appraiser in handling questions from the client or an intended user following the delivery of the report.

**Q.** Are appraisers required by USPAP to retain a paper copy of electronically transmitted appraisal reports?

**A.** No. The Record Keeping section of the ETHICS RULE requires appraisers to prepare and retain written records of appraisal, appraisal review, and appraisal consulting assignments. However, the Comment states: "*A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy.*"

Therefore, a paper copy is not required.

**Q.** Recently I have considered maintaining only electronic work-files (i.e., saving only electronic versions of my reports and supporting data, and scanning any paper documents used so that copies may be stored on electronic media). Is this prohibited by USPAP?

**A.** No. There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of work-files.

An appraiser must also be mindful of the requirement to have access to the work-file for the applicable required time period. The appraiser must ensure that the proper software is maintained to allow access to the electronic files.

**Q.** How long do I have to retain a work-file for an assignment?

**A.** The Record Keeping section of the ETHICS RULE states: "*An appraiser must retain the work-file for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.*"

**Q.** My state appraisal board is asking me to send a copy of the work-file for an appraisal I performed eight years ago. Since I provided no testimony in the assignment, I was only required to maintain access to the work-file for five years. Given that this time period has expired, can the state board still take action in this case?

**A.** Yes. The time frames referenced in the Record Keeping section of the ETHICS RULE are **only minimums**. Nothing in USPAP would prevent an enforcement proceeding from taking place after the applicable time period had expired.

**Q.** My state law requires an appraiser to retain work-files for three years after the valuation date. Is this an example of a jurisdictional exception?

**A.** No. Jurisdictional exception is defined as *an assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.*

In the scenario described, complying with the Record Keeping section of the ETHICS RULE would exceed the requirements of the law, but it would not be contrary to the law.

By retaining access to work-files for the longer period required by USPAP, the appraiser would also be in compliance with the



law. Therefore, this would not be a jurisdictional exception.

**Q.** What are supplemental standards?

**A.** Supplemental standards are requirements that

- are issued by a government agency, a government sponsored enterprise or another entity that establishes public policy;
- have a material effect on development and reporting, and
- apply to all properties or assignments in a particular category.

Contractual agreements that are unique to the contracting entity and which apply specifically to a particular property or assignment are not supplemental standards.

**Q.** What makes a requirement a supplemental standard?

**A.** In order for a requirement to become a supplemental standard in an assignment, the requirement must add to the purpose, intent and content of the requirements set forth in USPAP and have a material effect on the development and reporting of assignment results. The requirements applicable in an assignment, as that term is used in USPAP, relate to the development and communication of an appraisal, appraisal review or appraisal consulting assignment.

Requirements that extend beyond this purpose, intent and content framework, such as the number of copies of a report, the kind of exhibits, or the time-frame for assignment completion, might be legitimate service contract requirements. However, they are not supplemental standards applicable to an appraisal, appraisal review or appraisal consulting assignment in the context of the SUPPLEMENTAL STANDARDS RULE.

**Q.** Can a supplemental standard require less than USPAP?

**A.** No. Supplemental standards may augment USPAP but must not diminish the purpose, intent, or content of USPAP.

**Q.** I was told that the SUPPLEMENTAL STANDARDS RULE makes it a violation of the ETHICS RULE if I do not comply with every condition in an assignment that I accept. How can this be? I can't control every possible factor in performing an appraisal. Please explain why this is necessary and exactly what it means.

**A.** This portion of the SUPPLEMENTAL STANDARDS RULE is necessary to ensure appraisers recognize their USPAP-related obligations when accepting an assignment that includes supplemental standards.

It is essential to recognize that not all assignment conditions are supplemental standards. Further, even when a requirement that is a supplemental standard is not met, that failure to comply is not necessarily a violation of the ETHICS RULE.

If an appraiser accepts an assignment involving supplemental standards and then the appraiser knowingly fails to comply with those supplemental standards, that action is a violation of the ETHICS RULE because the appraiser did not comply with the agreed upon supplemental standard. If instead an appraiser fails to meet a supplemental standard due to an inadvertent error, such action may be a violation of, for example in a real property appraisal, Standards Rule 1-1(b), but it is not a violation of the ETHICS RULE.

**Q.** What is the purpose of an appraiser's work-file?

**A.** An appraiser's assignment work-file preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations.

The appraiser's assignment work-file also serves other purposes. As in many other professions, discipline by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a work-file aids the appraiser in handling questions

from the client or an intended user following the delivery of the report.

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**A.** No. The Record Keeping section of the ETHICS RULE requires appraisers to prepare and retain written records of appraisal, appraisal review, and appraisal consulting assignments. However, the Comment states: *“A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy.”*

Therefore, a paper copy is not required.

**Q.** Recently I have considered maintaining only electronic work-files (i.e., saving only electronic versions of my reports and supporting data, and scanning any paper documents used so that copies may be stored on electronic media). Is this prohibited by USPAP?

**A.** No. There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of work-files.

An appraiser must also be mindful of the requirement to have access to the work-file for the applicable required time period. The appraiser must ensure that the proper software is maintained to allow access to the electronic files.

**Q.** How long do I have to retain a work-file for an assignment?

**A.** The Record Keeping section of the ETHICS RULE states: *“An appraiser must retain the work-file for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.”*

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was only required to maintain access to the work-file for five years. Given that this time period has expired, can the state board still take action in this case?

**A.** Yes. The time frames referenced in the Record Keeping section of the ETHICS RULE are **only minimums**. Nothing in USPAP would prevent an enforcement proceeding from taking place after the applicable time period had expired.

**Q.** My state law requires an appraiser to retain work-files for three years after the valuation date. Is this an example of a jurisdictional exception?

**A.** No. Jurisdictional exception is defined *as an assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.*

In the scenario described, complying with the Record Keeping section of the ETHICS RULE would exceed the requirements of the law, but it would not be contrary to the law.

By retaining access to work-files for the longer period required by USPAP, the appraiser would also be in compliance with the law. Therefore, this would not be a jurisdictional exception.

*This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to inform appraisers, regulators, and users of appraisal services of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems.*





**DISCIPLINARY ACTIONS**

**DAVID LYLE HASKINS (R-800), BELOIT  
COMPLAINT #471**

**Violations:** K.S.A. 58-4121; 58-4118(a)(6), 58-4118(a)(7); and (58-4118(a)(8)

**Action:** A Consent Order was entered into on March 10, 2006 with the following terms and conditions: That Haskins take and pass the exam of the 15-hour USPAP course on or prior to June 30, 2006; that Haskin take and pass the exam of a minimum 30-hour appraisal procedures courses on or prior to June 30, 2006; that Haskins cease all supervision for appraisers/trainees, effective the date of the Order and to end 12 months following completion of the above shown education.

**JOHN G. THURSTON (R-1713), MISSOURI  
COMPLAINT #453**

**Violations:** K.S.A. 58-4121; 58-4118(a)(6); 58-4118(a)(7); and 58-4118(a)(8)

**Action:** A Consent Order was entered into on March 10, 2006, with the following terms and conditions: That Thurston take and pass the exam of the 15-hour USPAP course on or prior to June 30, 2006; that Thurston take and pass the exam of a minimum 24-hour market sales analysis course on or prior to June 30, 2006; and that Thurston pay \$480 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

**MAXINE L. BIGGS (R-298), ABILENE  
COMPLAINT #470**

**Violations:** K.S.A. 58-4121; 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on March 31, 2006, with the following terms and conditions: That Biggs take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that Biggs take and pass the examination of a

minimum 15-hour market comparison course on or prior to June 30, 2007; and that Biggs cease and desist from all supervision of appraisers/trainees for a period to commence the date of the Order and ending six (6) months following completion of the above shown education

**STEPHEN ANDREW LOSEY (L-1586), MISSOURI  
COMPLAINT #466**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on March 31, 2006, with the following terms and conditions: That Losey take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that Losey take and pass the examination of a minimum 15-hour sales comparison course on or prior to June 30, 2007; that Losey cease supervision of all appraisers/trainee for a period to commence the date of the Order and end 12 months following completion of the above shown education; and that Losey pay \$320 within 30 days of the Order to cover the cost of the review associated with this complaint.

**CHAD F. STITES (G-2127), FLORIDA  
CASE NO. 05-21**

**Violation:** K.S.A. 58-4118(a)(13)

**Action:** A Final Order was entered on March 31, 2006, suspending Stiles certification for a period of 30 days, commencing April 5, 2006.

**MICHAEL HARMON (R-1662), MISSOURI  
COMPLAINT #459**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on April 6, 2006, with the following terms and conditions: That Harmon take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that Harmon take and pass the examination of a minimum 24-hour sales comparison course on or prior to June 30, 2007; that Harmon

cease and desist from all supervision of appraisers/trainees for a period to commence the date of the Order and to end 12 months following completion of the above shown education; and that Harmon pay \$380 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

**DENNIS MARK TOTMAN (R-645), ARCADIA  
COMPLAINTS #422 & 447**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order as entered into on April 11, 2006, with the following terms and conditions: That Totman take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007, that Totman take and pass the examination of a minimum 15-hour sales comparison course on or prior to June 30, 2007; that Totman take and pass the examination of a minimum 15-hour report writing course on or prior to June 30, 2007; that Totman cease and desist from all commercial appraisals; that Totman cease and desist from all supervision of appraisers/trainees for a period to commence the date of the Order and to end 12 months following completion of the specified education; and that Totman pay \$800 to cover the cost of the review associated with this complaint.

**JEREMY PLAGMAN (L-2134), MISSOURI  
COMPLAINT #458**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on April 17, 2006, with the following terms and conditions: That Plagman take and pass the examination of a minimum 24-hour introductory appraisal course on or prior to June 30, 2007; that Plagman take and pass the examination of a minimum 24-hour market comparison course on or prior to June 30, 2007; that Plagman cease and desist from all appraisal of complex properties for a period of 12 months, commencing the date the above shown education has been completed; that Plagman's appraisal work be

supervised by a certified appraiser for a period of 12 months, commencing the date of the Order; that Plagman submit a monthly log during the 12 month supervised period; that the Board may select up to 3 reports from said log for additional review; that Plagman pay the cost of the additional reviews within 30 days notice from the Board; and that Plagman pay \$720 to cover the cost of the review associated with this complaint within 30 days.

**ROBERT SCHUSTER (R-1706), MISSOURI  
COMPLAINT #472**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on April 26, 2006, with the following terms and conditions: That Schuster take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that Schuster take and pass the examination of a minimum 15-hour report writing course on or prior to June 30, 2007; and that Schuster pay \$400 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

**MARC E. BUNTING (G-376), TOPEKA  
COMPLAINT #392**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on April 26, 2006, with the following Terms and Conditions: That immediately following the date of the Order, Bunting submit evidence of successful completion of the 15-hour USPAP course; that immediately following the date of the Order, Bunting submit evidence of successful completion of a 15-hour report writing course; that Bunting pay \$250 to cover attorney fees and other expenses within 30 days of the date of the Order; and that effective the date of the Order, Bunting cease all supervision or appraisers/trainees for a period of 90 days.

**ROBERT D. THOMAS (L-1707), TOPEKA  
COMPLAINT #393**

**Violations:** K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

**Action:** A Consent Order was entered into on April 26, 2006, with the following Terms and Conditions: That immediately following the date of the Order, Thomas submit evidence of successful completion of the 15-hour USPAP course; that immediately following the date of the Order, Thomas submit evidence of successful completion of a 15-hour report writing course; that Thomas pay \$250 to cover attorney fees and other expenses within 30 days of the date of the Order; and that effective 90 days following the date of the Order, Thomas cease all supervision or appraisers/trainees for a period of 90 days.

**BRIAN SHEPHERD (G-642) EL DORADO  
CASE NO. 06-05**

**Violations:** K.S.A. 58-4118(a)(6), (7) and (8).

**Actions:** A Proposed Default Order was entered on May 3, 2006, with the following terms and conditions: That Shepherd take and pass the examination of the 15-hour USPAP course, a minimum 36-hour income capitalization course and a minimum 24-hour report writing course within six (6) months of the Order; that Shepherd maintain a log of all appraisals performed for a period of six (6) months following completion of the above shown education; that said log is to be submitted to the Board office monthly; that the Board may select two (2) appraisal from the log for additional review; that Shepherd pay \$810 to the Board within 30 days of Certificate of Service; that Shepherd will pay the cost of any additional reviews performed within 30 days of notice from the Board.



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(785) 271-3373 (PHONE)

(785) 271-3370 (FAX)

[sally.pritchett@kreab.ks.gov](mailto:sally.pritchett@kreab.ks.gov)  
[cheryl.magathan@kreab.ks.gov](mailto:cheryl.magathan@kreab.ks.gov)

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