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### **Fannie: Inspection waivers, hybrids, UAD and forms changes - where is residential lender appraising going?**

I have been working on an article on hybrid appraisals for quite a while. But, I keep getting new information and have postponed it until now. The biggest news is that Fannie is testing them. If Fannie uses hybrids, everyone else will.

This month I go over the Big Picture of where Fannie is going regarding hybrids, forms, UAD, etc.

Next month I will have form samples and input from appraisers doing hybrids now and in the past. This will help you decide if you want to do them.

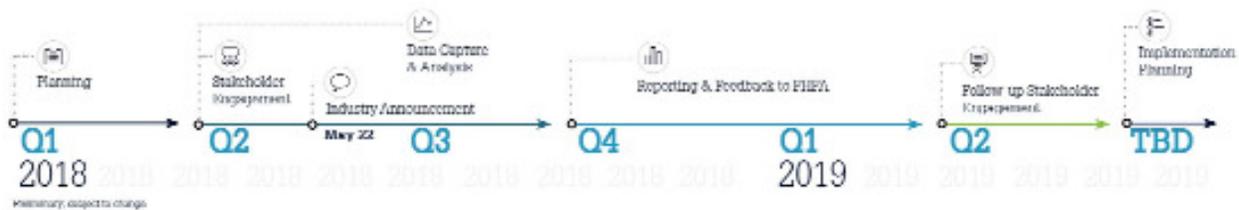
The biggest problem for using statistics to determine home values is the lack

of reliable data. MLS, public records, etc. are not standardized. Appraisers have always been considered to be the most reliable sources of accurate property data. With UAD certain fields have been standardized by Fannie.

Ever since I started doing lender work in 1986, I was surprised that I kept doing easy full appraisals on the tract homes over and over again. It was easy money, but did not seem to be always necessary for a loan.

On the other hand, as we all know, the "tough appraisals" won't work using only data. Appraisers are required.

What is needed is a way to determine if a full appraisal is needed because the property is unusual. I am sure Fannie wants to do this, but I have not heard anything. Maybe they are waiting for more UAD data from new forms.



## New Fannie Forms

Source: Peter Gallo notes from AARO meeting May 4

Per Scott Reuter of Freddie, There is a joint GSE (Fannie & Freddie) effort to redesign the current appraisal form (1004) underway.

He described the current form as "archaic" and that they are in the first quarter of the first year of a three-year effort to revise the form (so they are at the very beginning of this process).

They are considering all options including that there might not be a form at all, but could even be some sort of online schematic or portal for a give and take of information. He said that there will be a lot of outreach to stakeholders and the pursuit of modernization will involve a lot of listening. He also mentioned that "big data is here to stay".

## UAD and form changes - UAD and Forms Redesign initiative

Most of the data in the current forms is not formatted for UAD, and is not used in Fannie's database. This greatly limits the reliability of Fannie's statistical analysis, including AVMs.

Below is from Fannie's May 22 Selling Notice: Fannie Mae and Freddie Mac will update appraisal dataset and forms.

Excerpt: Fannie Mae and Freddie Mac (the GSEs) have launched an

initiative to update the Uniform Appraisal Dataset (UAD) and uniform appraisal reporting forms. The UAD and Forms Redesign initiative will leverage extensive stakeholder input to update the appraisal dataset, align it with the industry-standard MISMO® Reference Model Version 3.X, and overhaul the uniform appraisal forms to establish a more flexible, dynamic structure for appraisal reporting. This work is designed to provide greater clarity to lenders, borrowers, and investors; simplify appraisal reporting and reviewing; and build a foundation for appraisal modernization.

The UAD was implemented in 2011, introducing the first-ever standardization and common requirements for appraisal data. This work represented a significant step forward, driving improved data quality and consistency, supporting analysis to drive more effective risk management, and enabling innovation.

The GSEs are working together, at the direction of the Federal Housing Finance Agency (FHFA), to assess and, as appropriate, begin implementation of strategies to redesign the UAD. Under the auspices of the Uniform Mortgage Data Program (UMDP)\*, the initiative will focus on modernization of the current UAD dataset and residential appraisal forms.

The initial stages of the multi-year initiative will explore options and make recommendations regarding changes to the UAD and appraisal forms that will support emerging technologies and data updates, and provide a foundation for appraisal process modernization.

The first phase of the project involves collection of input from industry stakeholders. The GSEs have begun conversations with appraisal software and forms vendors, and in the coming months will engage lenders; appraisers and appraisal management companies (AMCs); industry groups and trade associations; and government agencies and departments. The GSEs will provide periodic updates and progress notifications.

### **What type of appraiser input is Fannie looking for?**

Source: Thanks to Charles Baker, Appraisal Institute Region VII Government Relations Chair and Southern California Chapter President. Charles Baker, SRA  
cbaker@appraisalpros.com

At the Appraisal Institute Government Relations Committee meeting with FNMA in Washington DC on May 15th, Fannie posed the following questions (direct quote):

Fannie Mae would like to engage you on the below topics relating to our appraisal process modernization initiative. On behalf of the Collateral Policy &

Strategy team, we appreciate and value your feedback as we migrate to a more data-centric approach.

1. As the entire industry is moving towards a more digital mortgage process, what would the ideal appraisal process look like?
2. What component(s) of the current appraisal process causes the greatest amount of confusion or dissatisfaction with the appraiser community? How would you solve for it?
3. What are the easiest and most complicated problems to solve in the current appraisal process? How would you solve for each?
4. How can emerging technologies support the appraisal process?
5. What component(s) of the appraisal process should not be influenced or changed by digitization and emerging technologies?
6. How can we best facilitate cost and process efficiencies while satisfying regulatory requirements and concerns of the appraisal community?
7. Please provide your suggestions on how Fannie Mae can foster appraiser independence, improved appraisal quality, and greater appraisal report transparency.
8. What can be done to reduce appraisal revision requests and value reconsideration requests?
9. What are the pros and cons to adopting a bifurcated appraisal process?
10. How can we better connect with the appraiser community?

I will let you know the best ways to get your input to Fannie.

### **Property Inspection Waivers (PIW)**

Recently, Fannie sent out an announcement that using PIWs can save up to 2 weeks in time to close a refi or purchase loan. Freddie Mac is also using inspection waivers.

There are LTV limitations, but this is the most significant limitation: a prior appraisal must be found for the subject property in Fannie Mae's Collateral Underwriter (CU) data and that appraisal must be associated with one of the borrowers on the loan casefile.

Per a May 2018 article by Ken Harney, nationally syndicated writer, "During 2017, Fannie Mae acquired roughly 60,000 no-appraisal mortgages - 5 percent of its total 1.2 million home-loan acquisitions. Assuming an average appraisal costs about \$500, then the combined savings to buyers and refinancers totaled somewhere near \$30 million... Freddie Mac declined to estimate specific savings but said through a spokesman that by accepting appraisal waivers, "borrowers may have saved millions."

For more info google Fannie Mae Property Inspection Waiver.

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## Hybrid appraisals

Next month I will have lots more info on the issues below, plus examples of forms.

Appraisers have been doing hybrid appraisals for at least 10 years, using a wide variety of forms.

They have been used for portfolio analysis and other uses, but not for making loans, for many years as an alternative, or in addition to, AVMs and BPOs.

If the GSEs start using them, their use by appraisers will increase, replacing the 1004. This will change the role of the appraiser.

But, some question their use or are unsure if they are reliable. Others are ready to use them now.

## Moody's Investor Service questions use of alternative valuation products

(February 2018) Source: Housing Wire

"Moody's released a new report showing appraisal alternatives such as hybrid appraisals, broker price opinions and automated valuation models could weaken credit quality of new residential mortgage backed securities."

"In seeking to reduce operational costs, increase efficiencies and address the shrinking ranks of US property appraisers, mortgage market participants are exploring the use of alternatives to traditional means of calculating property values and, in some cases, starting to use them more," Moody's analyst Lima Ekram said. "Their use in tasks that affect the credit quality of RMBS securitization collateral could, however, lead to a weakening of new RMBS transactions."

Per Moody's the costs are:

Turn time and fee comparison (from Moody's report)

- Traditional: 3-20 days, \$450 or more
- Hybrid appraisal: 3-7 days, \$125-\$450
- Broker price opinions: 3-5 days, \$70-\$150

## USPAP

Per the AQB, the appraiser decides if the inspection is reliable. If not, the appraiser turns down the assignment when the inspection report is received or when the assignment is requested.

The biggest issue is the wide variety of forms used. Some are cut and pasted from 1004 forms and do not include all the required USPAP information. There is no "standard" form.

## **Forms**

Next month I will have samples of the different types of forms. Some are filled out online, some on desktop, some appraisal software has hybrid forms.

## **Fees**

Current fees I have heard varied from \$75 to \$125 to the appraiser. A few appraisers mentioned significantly lower fees 10 years ago.

All the work I have heard about is through AMCs, but there may be some direct lenders or investors ordering them.

Appraisers are being solicited by AMCs to do hybrid appraisals. They have even been contacting me.

## **Liability**

The primary liability complaints are from borrowers, just like other types of appraisals. What will happen is not clear yet, as they have not been used for making loans.

## **Profitability**

The key is how much you make per hour. If you get \$100 and it takes 4 hours to complete, you get \$25 per hour. But, how much time and hassle is it to upload the forms? If there is any back and forth questions from the client, income per hour goes down.

## **Where to get more information**

Next month I will have form samples and input from appraisers doing hybrids now.

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## **What's new at the ASB and AQB? Hybrids, ASB online forum, experience practicum, etc.**

Sources: Live streaming of ASB meeting April 20, 2018

AQB meeting notes by Peter Gallo, May 4, 2018 (From Jonathan Miller's Housing Notes)

AARO meeting notes by Peter Gallo, May 5, 2018 (Association of Appraiser Regulatory Officials)

FYI, both the ASB and AQB are now doing live streaming of their meetings.

I attended the recent ASB meeting. It was very worthwhile to see and hear what they said.

### **Who is on the ASB?**

Unfortunately, there have always been very few residential appraisers on the ASB, although there are more residential than commercial appraisers. Also, there are many issues regarding residential lender appraising.

The ASB also has non-real property appraisers, such as business valuation, personal property, and machinery and equipment. Currently there are two non-real property appraisers.

Currently, Margaret Hambleton and Lisa Desmarais are residential appraisers specializing in litigation support. The remaining real property members are certified general.

Current members:

Margaret Hambleton, Chair - Residential

Wayne R. Miller, Vice Chair - Commercial

Patricia H. Atwood - Personal Property

Lisa Desmarais - Residential

Steven H. Berg - Commercial

R. Lee Robinette - Machinery and Equipment

Michelle Czekalski Bradley - CO state regulator reviewer regulator Commercial

John Brenan is the Director of Appraisal Issues for The Appraisal Foundation since October 2003. He worked for the California Bureau of Real Estate Appraisers for 8.5 years. Prior to that he worked as a staff appraiser and fee appraiser for several large financial institutions, appraising both residential and non-residential real estate covering a wide variety of property types. He also previously managed an appraisal department for a major financial institution.

David Bunton is the president of the Appraisal Foundation and has been in charge since it started. Previously he was a legislative assistant in the Senate in Washington DC.

### **Hybrid appraisals**

The ASB unanimously said that USPAP did not have to be modified and that hybrid appraisals can conform to USPAP if the forms used include the required elements from USPAP. The original Q&A about hybrids was revised to make it clearer. To me, it is still not very clear. The appraiser decides if the information provided by someone else is sufficient.

Some states say there is a problem with relying on someone else for inspection. Check with your state.

### **Reconsideration of appraisal issues**

The ASB is working on a voluntary Best Practices on how to handle reconsiderations of appraisal issues: what, how and time frame.

### **Adding additional users to restricted reports**

My comments: Sounds like a good idea to me. Restricted reports, for many clients, means a lower fee because Restricted reports do not require very long to write. However, with only one user, they are very limited in use.

### **Defining "inspection"**

There is no clear definition in USPAP. FHA uses "observation". Inspection is discussed for traditional appraisals in USPAP. Confusion with home inspectors is possible. Hybrid appraisal inspections are also an issue.

### **Number of USPAP instructors**

Currently 432, down 8.3% from 2017.

### **USPAP Internet outreach**

The ASB is working on short 3-5 minute Q&A videos with graphics, which is what appraisers want. They have recorded a few so far and will be available this summer on You Tube.

Webinars and live streaming of meetings are popular.

### **Appraisal Foundation online Q&A Forum - questions answered within 24 hours**

The link is on the home page. Or, go to <http://appraisal.answerbase.com> . Per John Brennan, he will answer question within 24 hours.

There are relatively few questions, probably because few appraisers know about it, including myself. It is searchable for a topic.

### **Veterans becoming appraisers**

The ASB and AQB are setting up a joint task force (or already have one - my notes are not clear).

### **Evaluations not subject to USPAP**

The ASB has not had success on this issue so far. The Appraisal Institute supports a bill to exempt evaluations under \$250,000 from USPAP.

### **Audience question: Effect of new Appraisal Subcommittee AMC regulations - a fee for each appraiser on panel**

Will AMCs reduce the panel size due to the fees? No response from Jim Park of the ASC.

Fees for AMCs in states that require them to register and be supervised will be assessed as follows (direct quote from Appraisal News Online Sept 27, 2017:

AMCs in business for more than a year will pay \$25 for each appraiser who performed an appraisal for the AMC on a covered transaction in the state during the previous year.

AMCs in business less than a year will pay \$25 for each appraiser who performed an appraisal for the AMC on a covered transaction in the state since the AMC commenced doing business.

The Final Rule was developed and finalized over the objections of the Appraisal Institute and many other industry participants that expressed concern that the AMC Registry Fee rule, as constructed, could hurt small businesses and result in an additional "tax" on small appraisal firms.

### **Practicum (From ASB meeting)**

This issue has been around for a long time as a way for trainees to get experience, especially since lenders no longer train appraisers.

When licensing started there were for profit schools where trainees could get education and training. Most were funded by state disability departments for retraining. Unfortunately they all shut down when the market crashed in early 2000s. I remember lots of calls from state counselors asking about job opportunities. I told them there were little or none.

In the past, practicum standards were proposed, but there was no way to make money, so no one tried it.

The AQB is trying again to set up something. They are looking at what other professions do and a possible pilot program.

There was resistance at first, but after explanations, most agreed to proceed. Up to 75% of experience from practicum, then work for an appraiser. Moving along slowly.

### **Practicum from AQB meeting**

Direct quote from Peter Gallo notes: "The Board is currently speaking with and searching for education providers that can assist them with the development and approval of these practicum courses. Board members emphasized that the new generation of appraisers learn in a different way and that technology and simulation can be used to generate real life scenarios that can replace actual

experience and that "boots on the ground" is not necessarily the only way to go in the new world of learning. The floor was opened to up to Q&A and needless to say there were many questions. My understanding from the give and take between the audience and the Board is that the Board does not yet know what any of the practicum courses might actually look like yet because they are only just beginning to touch on the subject internally and still have a long way to go and that their development will be a long process."

"The Board emphasized that the reduction in the criteria was not a result of or in response to any "shortage" or pressure from any groups. The sole purpose was to eliminate barriers or hurdles to entry into the profession. Thus, the consideration of practicum courses to give credit where a college degree might not be present.

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**by R. Wayne Pugh, MAI, CRE, FRICS, CCIM**

As appraisers, we process a variety of data and information every day. Unfortunately, most of us are not using efficient systems or processes for storing, cataloging, refining, analyzing, and recalling the variety of data that we observe and collect every day.

To help resolve these issues, Evernote released its first product soon after the first iPhone hit the market. With Evernote, users can organize a variety of disparate data using a single application. Since Evernote is a multi-platform application, access to your data is available from a variety of devices including Windows, Mac OS, iOS (iPhone) and Android.

Just snap your photos, take some notes, draw a floor or site plan, make a few audio comments and easily upload everything to Evernote. With almost any device, your photos, notes, drawings, and audio files will instantly be available to anyone with access. Evernote makes data storage simple by allowing users to catalog website clippings, test files, scanned images, text, audio and video files regarding any property or topic. Evernote further enhances access to your data through its optical character

recognition (OCR) technology by allowing appraisers to quickly and easily find what they are looking for in any of the notes filed in Evernote.

**To put it simply, Evernote stores almost any form of data and processes the information to optimize search and retrieval from almost any device. Evernote is the network link that keeps the appraiser connected and informed.**

### **Complimentary Apps**

Evernote's early success has spawned a variety of complementary products, a few of which include:

*For more details, refer to the [Evernote.com](http://Evernote.com) website under Products and The Trunk.*

- *Penultimate* for notes and sketching. It is best used for making sketches in the field. (Free, for iPad)
- *Sketch* for annotating images with arrows, etc. (Free, for iOS, Android, Windows, and Mac OS)
- *Web Clipper* to clip images and formatted text from the web. (Free, for Safari, Chrome, Firefox, Internet Explorer)
- *Scannable* captures the paper in your life quickly and beautifully, transforming it into high-quality scans ready to save or share. (Free, for iPhone iOS and Android)
- *Pocket* allows you to store almost any content for later reading, watching or listening. (Free, for Android, iPad, iPhone, and Mac)
- *Other Apps can be found at the [App Center](#)*

### **Evernote Pricing and Summary of Features**

**Evernote Basic** is Free

- Capture's anything
- Access Evernote from anywhere
- Find things very fast
- Limited to two devices
- Limits uploads to 60MB per month

**Evernote Plus** is \$3.99 per month or \$34.99 per year

- Unlocks features like accessing notebooks offline, emailing notes to your Evernote account
- The ability to email customer support
- Syncs across all devices
- Limits uploads to 1GB per month

**Evernote Premium** is \$69.99 per year

- The ability to search for text in Office documents and PDFs
- Annotate PDFs, scan business cards and suggested notes and content from the web that are relevant to the note you're currently working on
- Syncs across all devices
- Limits uploads to 10GB of uploads per month

**Evernote Business** costs \$14.99 per month per user

- Includes Evernote Premium
- Evernote Business offers appraisers quick access to all of the company's knowledge base on all company devices
- Limits uploads to 20 GB of new uploads per month plus two GB per user

Check out the free download at [www.evernote.com](http://www.evernote.com). If you find the Evernote app is for you, explore the functions available through the Plus and Premium subscriptions. One of those should serve you well. The Evernote website has a good comparison of the offered plans.

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## **Preface to The Enforcement Table: Competence, Ethics and Fraud**

**By Barry Bates**

*Editor's note:* This article is a continuation of last month's article "What really happens with State Regulator USPAP Enforcement", which included a 1-page

Enforcement Table with fields from the 1004. This month, that list is expanded, and will be completed in the July issue with the remaining fields.

This commentary is intended to travel with the Enforcement Table, but is a separate document explaining the rationale behind the creation of the table, which reflects a 45-year career in appraisal and valuation management, plus two years as an investigator with a state appraiser licensing and enforcement agency.

### **A look at the recent past: mortgage meltdown**

By 2007, staff and fee appraisers serving the mortgage industry had lost their way. When it was possible for appraisers to wave a yellow flag over the soft dollars being packed into contract prices, we kept silent. We were buried in the huge volume of appraisal orders, and had convinced ourselves that above all, we must follow the market. However, sometimes the market can be crazy, and it has always been the primary function of appraisal in lending to alert the client.

Running a simple cost approach based on accurate land prices would produce a residual of excess profit, which breeds ruinous competition and a market collapse. Those of us who tried to talk sense to subprime lenders were confronted by deaf ears. The client was benefiting from the excess profit. Alerting the client became a way to get blacklisted.

### **The Enforcement Table**

I hope that you'll find the table useful. Also that you'll be able to get what I now have at 72: a modicum of peace of mind and joy when a former employee or convention attendee calls me years later to say that I had been a terrific boss and/or mentor, that my advice had changed their lives for the better. Little did they know of my histrionic personality disorder.

Hopefully, the Enforcement Table below will serve to remind you of "shortcuts" you may have once taken that got the job done but were at least technically incompetent if not unethical, leaving that ball of molten guilt in your gut. We human beings are flawed creatures, and I have my own sidesteps that make me cringe when I remember them.

Yet it's the memory of them that has helped keep me on the straight and narrow once licensing and enforcement appeared on the scene (ninety-twoish).

We're heading into a period of game change, with the opportunity to restore public confidence through data management and the careful use of artificial intelligence. By the same token, the change may disrupt residential appraisal in terms of supply and demand.

Back in '83, when I was regularly attending a major recovery program for

alcoholics and drug addicts, I learned that I might get away with lying to God, or to my wife, or to my recovery counselor; but I face doom if I lied to myself. My appraisal sins were not so egregious (usually adding "alternative facts" to the comp grid in order to pump value or start the cocktail hour at 1PM). But showing up to tape a house while under the influence of organic substances could have-and perhaps should have at least cost me my job; yet I stayed under the radar until 1983. However, those memories are insufficient on their own in keeping me honest; I had to decide to change my entire attitude in order to live a life devoid of disastrous guilt and self-loathing. I decided I would be broke if necessary; and I got my wish!

Apart from its religious connotations, confession (one of the Twelve Steps) is a great way to improve character. I found that if I left any loopholes for myself ("well, I can just learn to quit after a few beers"), I would drink or use again, or discover that cocaine was God's way of telling me I didn't make enough money. At the time, I was managing construction of 88 luxury ski-country condos; our wealthy European joint venture partner, the architect, real estate broker and construction contractor all drank and used heavily, which was all the excuse I needed. I became the "hail-fellow-well-met" as babysitter on two other deals as well.

As the years of sobriety and "cleanliness" rolled on (#35 at this writing), I saw the "phenomenon of craving" get the best of good people, over and over again. I found also that Socrates was right when he wrote that "the unexamined life is not worth living". Those in recovery who did not assiduously address themselves to sharing their most shameful secrets ended with three options: jails, institutions and death (O my!).

Finally, at age 38, watching my father's and brother's descent into "pitiful, incomprehensible demoralization" had become enough for me. I sought help. As I grew in self-examination, I was able to apply myself honestly in my work; it helped to be part of a profession that has struggled to maintain public trust by delivering an intelligent analysis and a reliable conclusion in real property valuation. The job became fun again.

What this means in appraisal is that if it can be proven that you did something seriously wrong that could have resulted in financial or other damage, AND if it can be proven that you INTENDED to DECEIVE someone, you will be accused of improper CONDUCT, not just incompetence, and the result will likely involve license restrictions, suspension or revocation.

If fraudulent conduct can't be proven (and it's hard to prove), you will likely be only cited and fined. Moreover, administrative law judges who conduct such hearings do not want to take anybody's livelihood away; so you can be assured that if you read of a revocation, that appraiser likely deserved it.

I'm 72 now, and apart from failing to save for retirement, I can look back on a rich career of service to others. My crowning glory has been to have several people thank me for helping them at various points in their own career and many years after they heard me speak. That's my stash of pure gold.

When I applied what I had learned to my job, life got immeasurably better, and clear thinking pushed me to lay out a "ten commandments of appraisal", a complex diagram between the actions of Standard 1 and the conduct issues that arise in Standard 2, as well as other tools to help my staff appraisers know when they are being scammed by other real estate professionals, who perhaps never examined anything more personal than their ATM balance.

The Ten Commandments were not written as tools to help you "get over". Likewise, USPAP (by no means a perfect rulebook) is full of weasel words but provides at least a workable structure for producing an appraisal report devoid of personal bias.

Appraisers who argue for extinguishment of USPAP, and the use of private standards that fail to prohibit contingent fees, reflect a low-level sociopathology that will wreak havoc in a society struggling with corruption.

### **How to use the Enforcement Table**

The observations below are not designed to be burglar tools or sticks with which you beat yourself. Hopefully, they are ways to defend yourself, your staff and your clients against appraisal fraud, and are based on a couple of years on the Other Side (i.e., as a senior appraiser/investigator for a major state appraiser licensing and law enforcement agency). I suppose there are a few cynical appraisers out there who will use the information below to avoid trouble, but so as to continue pumping values in support of a few dirty clients who pay high fees for high (or low) values.

And yes, it's likely that those appraisers will make more money over the span of their working life, but they will still run the risk of being found out. Public reproof is a sad way to end a career, knowing that you're now on every lender's blacklist. Welcome to the wonderful world of home inspection; or a lengthy stay at the federal penitentiary at Ft. Leavenworth, KS (a very rare outcome, but it does happen).

I hope that someday, an honest appraiser's or reviewer's discovery of appraisal or mortgage fraud (sometimes causing millions of dollars in damages) will help mortgage lenders realize that they still need an honest pair of eyes; they may be able to sell off the risk, but it has a way of bouncing back again.

Hopefully, the list below brings some value to your practice. But first, some discipline samples paired with the mistakes and poor judgment that spawned

them:

### **Discipline samples of mistakes and poor judgment**

**\$1,000 Fine - 7 Hours No-Credit CE: Two of the SFR comps were foreclosure sales, the appraiser showed them as conventional financing, resulting in undervaluation.** Seven hours of CE not creditable toward license renewal. Figure the coursework will cost you another \$500. Plaintiff (aka Respondent) claimed incompetence and the investigator could not prove Plaintiff's intent to deceive, usually a key element in poor conduct that would have ended with much higher penalties.

**Citation, \$3,500 fine, 15 hours of non-credit CE: Respondent from a prior case failed to send to agency monthly work samples as required.** After three months of excuses (my hard drive crashed, etc., etc.), the Respondent was cited again. This time, he surrendered his license.

**Accusation, public reproof, \$5,000 fine, 30 Hours Basic Appraisal courses, not creditable toward license renewal:** An appraiser receiving large orders from one of the Top Six national banks, accepted an assignment to appraise 6 SFRs near Arcata, California, using the Fannie 2055 "drive-by" form when his normal territory and base of operations was 784 miles away. The complainant was the bank. After careful examination of the appraisals, it appeared that none of the properties were inspected in the field, as the subject, comp and street photos were all from Google Street Views. Appraiser was an amateur pilot, so intent to deceive could not immediately be proven despite the fact that claimed timing required drive of 784 miles at 265 mph. Then investigator compared photo time of day with bank's order and reception logs. The appraiser claimed a camera malfunction (dog ate my homework, sun in my eyes, my computer crashed, etc.), then that she had geographic competence by virtue of a State assignment ten years ago. Finally, she admitted fault, saying she desperately needed the fees.

**Accusation, Revocation, stipulated settlement, \$10,000 maximum fine, payment of \$125,000 to regulator as reimbursement of investigation costs if licensee ever reapplies for licensure.** (Note: on good behavior subsequent to revocation, the revoked licensee can reapply for a license after five years in most states; although the state's maximum fine was \$10,000, the appraiser was civilly sued in several different actions).

A prominent, designated commercial appraiser, in several appraisals, valued 250 acres and improvements, together with excess land suitable for private recreational/commercial use, in the hundreds of millions of dollars. The purpose of the appraisal in each case was to validate the property as adequate collateral for refinance.

The appraisals failed to identify functional problems, negative externalities and the likely effect of a luxury home division in a market inferior to those used as comparable sales; in addition, the appraisal claimed entitlements for development that were not in place and which ran against a land use agreement already in place with local government.

The property was probably worth only 10% of appraisal. The Accusation noted ten separate Causes for Discipline, involving other appraisals with similar deficiencies. Each cause clearly proved the appraisers INTENT to DECEIVE lenders into advancing funds based on mythical current values.

### **Additional enforcement requirements by regulators**

Note that in addition to fines, non-credit CE and license restrictions, appraisers may have to furnish future appraisals for monitoring purposes going forward; failure to do so results in a new citation. Types of suspensions can include time during which the appraiser must get educated on special subject matter.

License restrictions can include, for example, a prohibition on appraising golf courses or site condominiums. Even mild penalties cost the appraiser much more than face value in lost time and effort, and in responding to a monitor's concerns about certain reports (not to mention providing restitution for violated state laws unrelated to appraisal).

The thrust of USPAP enforcement is claimed to be compliance, not punishment. In appraisal, the state doesn't want to take your livelihood away. It's just that sometimes it might tell you to get a new career.

Interested in more examples? See the enforcement section of your regulator's website, and check the online hearing cases available from the state's Office of Administrative Hearings, where you'll find the basis of it all. In California, it's gargantuan Administrative Procedure Act.

### **About the author**

At 72, Barry has had wide-ranging experience and a technological perspective in a fast-paced career that serves as a testament to the fact that he has never been able to hold down a steady job.

He is now "retired" and lives in Pittsburgh, Pennsylvania with his wife, Kathleen and their two dogs. He writes for real estate publications and, in his own words, tries to get into more trouble.

In 2008, he filed whistleblower suits against MERS (on behalf of county recorders) in 12 states, all of which failed miserably.

Barry Bates wants to hear from you! Send your comments and criticisms by email. He can be reached at [barrettbates@gmail.com](mailto:barrettbates@gmail.com).

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# The USPAP Enforcement Table

## Table of Appraisal Components Susceptible to Falsification

The Fannie Mae 1004 appraisal form (March 2005 version) is considered to contain most appraisal components, thus is used to lay out a schematic of typical errors, omissions and departures from sound ethics in all types of reports. The "Most Often Which" column should be regarded only as the author's opinion, based on extensive appraisal, appraisal management (non-AMC) and regulatory experience. Regardless of copyright, author reserves the right to amend, edit, delete from or add to the field comments. -- B. Bates, May 2018 (barrettbates@gmail.com)

<b>Field No</b>	<b>Field Name</b>	<b>Error, Omission, Incompetence or Fraud</b>	<b>Most often which?</b>
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1	Address	Usually Error - Susceptible to Misrep	<p>In the vast majority of cases, a wrong subject address is just that; a mistake; but you're required to verify it with public records; you're looking for county assessment records that confirm the postal address used to send the annual tax bill. If the tax bill has been mailed to a different address, the property is likely non-owner-occupied, which must be disclosed and considered. If you rely on secondhand data, read the data vendor's terms and conditions for a hold-harmless clause (usually the vendor offloads it on you). Example: Appraiser A was asked to appraise the subject property for a sale but not to include a second assessor's parcel which the seller intended to keep. Since the additional parcel was a legal lot per the recorder's website, the appraiser complied. However, an agreement that "ran with the land" was missed that required that the two parcels not be sold separately. To avoid an E&amp;O claim, such an assignment should be refused after the appraiser's title research turned up the sale prohibition. Sometimes title research is in the Scope of Work by virtue of the complex assignment or discovery of complications. <b>Citation (incompetence): \$3,500, 15 hours non-credit CE.</b></p>
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2	City	Usually Error	<p>If the property is close to the city line, make sure by viewing plat that it's on the right side! An appraiser out to inflate or deflate value will sometimes try to make the subject property appear better located than it actually is.</p> <p><b>License suspension and education (appraiser claimed ignorance);</b> appraiser characterized a Pittsburgh neighborhood as a detached, self-policing borough; it was geographically detached from the City of Pittsburgh but was city governed and policed; identifying the location by neighborhood name (Overbrook) was misleading and made the location seem "fancier" than it was.</p>
3	State	Usually Error	<p>If the property is close to the state line, make sure by viewing plat that it's on the correct side! My former 2-acre home on Dog Valley Road in Verdi was located in California, but the next parcel up the road was in Nevada; the town is identified both as Verdi, NV and Verdi, CA, though the postal addresses are all CA. With a population of only 62 persons on both sides of the line, the appraiser's positive adjustment to a Nevada comp could not be justified on the basis of state location because there was no supportive data; moreover, Nevada has no income tax.</p> <p><b>The potential complainant (me) convinced the appraiser to revise and correct the report.</b> The appraiser seemed refreshed with the request to lower the value conclusion.</p>

4	County	Usually Error	<p>Error, sometimes used to conceal zoning issues. County government data is pivotal not only in determining zoning, but issues all building permits and approves or rejects all development proposals. <b>Accusation, license restricted to residential work, 30 hours education prior to restoration of full general certification.</b> Agency determined appraiser knew the subject property (a convenience store) had been constructed without certain required permits (using appraiser's email) but did not disclose; infill commercial was technically appropriate in the unusual C/R combination zone, but neighbors (who had moved years ago) had obtained a planning variance long before the current construction to prohibit any intense commercial use on the subject site adjoining the two SFRs. Appraiser deceived buyer by failing to apply proper scope of work. Appraiser also failed to disclose that the variances were known but decided not to investigate their nature. Case was kind of a blend between a failure of competence and conduct. (Moral: Examine and leverage the data on Planning's website; if none, visit the Planning plant. Neighbors gracefully had the the variance removed.</p>
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5	Legal Description	Usually Error - Susceptible to Misrep	<p>This field is a playground for appraisers too dumb to know why it's important. Those folk just take it from a secondhand data source like DataQuick without verification. This is the kind of field that makes an appraiser the object of a civil suit, claiming that the appraiser's negligence in relying on secondhand sources resulted in serious financial damage to a buyer who did not want a house on an oil pipeline, which the appraiser could have discovered by calling the city planning department when the appraiser saw the funny dashed lines running across the assessor's plat. Making sure of the subject's zoning and legal status is essential, and while you're on county websites, dig down to the subject and you'll also find out stuff like delinquent taxes, etc. <b>State appraisal agency decided that damages paid to buyer by appraiser (who had to sell his/her own residence) were sufficient as fine, but issued a Citation with 30 hours of basic non-credit continuing education.</b></p>
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6	Borrower	Frequent Misrep	<p>This and the following field (Owner of Record) are the principal weapons in defrauding owners of property. If the Borrower is shown as the same as the Owner of Record, the transaction type had better be a refinance. Wrong information in the Borrower, Occupant and Owner of Record field are fraudulently used to disguise a refinance as a sale, and vice versa and to disguise a rental as fee-owned property. Investigators routinely examine public records to match names and prior transactions, and so should appraisers. Often, the appraiser, by failing to understand the special scope of work, get dragged into a civil suit. <b>Citations and Accusations are most numerous in cases involving falsified or incorrect occupancy, tenancy or ownership, when many sellers and buyers just assume it's okay to fudge the issue.</b> They have nothing to lose. You do.</p>
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7	Occupant	Usually Error - Susceptible to Misrep	<p>You may have proof of coercion, but you're not coerced if you gave in. Though an appraiser may be charged only with incompetence for misstating occupancy, the citation hurts, and it doesn't seem fair when it's very difficult sometimes to know the nature of occupancy for sure. If the property is vacant but looks lived in, check the name on any mail in the mailbox (unless your lawyer thinks that's mail tampering; I doubt it unless the mail was opened or damaged by the appraiser). If you can't tell by inspecting, ask the seller to send you an email stating occupancy. Talk to the occupant! The house that is claimed to be tenant-occupied may be producing no rent if the occupant is the owner's deadbeat brother-in-law (thus the loan underwriter has overestimated the owner's creditworthiness); other times, owner-occupancy is claimed in order to obtain a higher LTV when the seller is in financial trouble. <b>Appraiser beware! If you can prove you couldn't have known about the fraud, citations can still be onerous when the potential financial damage is high. One way or the other, you made a serious error or omission.</b></p>
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8	Property Type	Susceptible to Misrep	<p>Sometimes a conduct issue, when the appraiser agrees not to disclose condo ownership to avoid HOA dues or other complications. Often also a competency issue; too many appraisers still don't understand site condominiums.</p> <p>The appraiser, appraising a small proposed subdivision, neither understood, discovered nor considered the site condominium status, nor why such ownership types exist. Working from plans, the appraisal was inflated by assigning fee-owned lot values and failing to account for expensive common area amenities. The loan was approved, but the lender was forced into advancing additional funds for common area improvements.</p>
9	Assignment Type	Frequent Misrep	<p>Misrepresentations are rampant between refinance and purchase; underwriting is more lenient in refi's, but there are many other reasons to misrepresent</p>

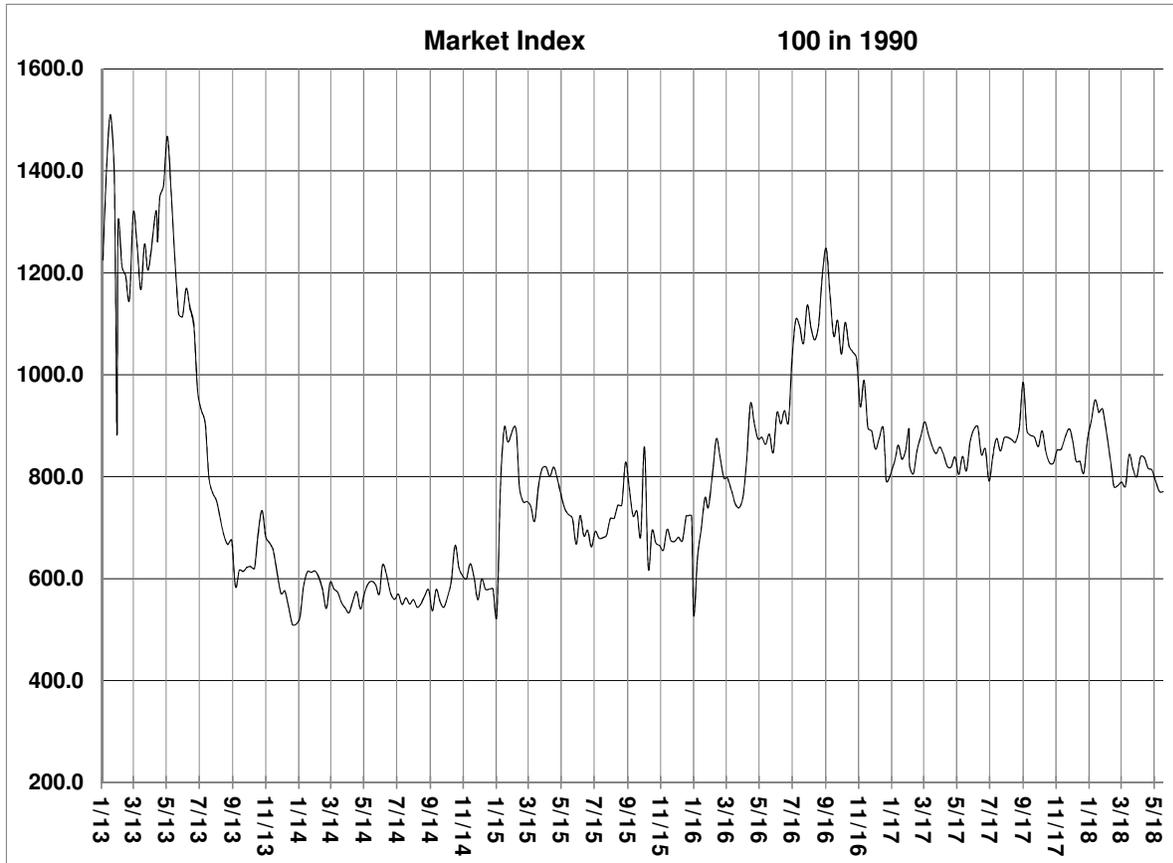
10	Contract	Frequent Misrep	<p>Appraisers, please don't say you reviewed the sales contract if you did not, and don't call it a contract if it is not signed and dated by buyer and seller, and witnessed if the document calls for witnesses. Also, the appraiser may be reviewing a dummy contract written by a transaction participant; take care to note who gave you the copy and their role in the transaction. Usually ignoring the sales contract is just sheer laziness or a fear of antagonizing a seller, buyer or agent; be aggressive when transaction parties won't send you a copy ("I'm sorry, my E&amp;O insurer / attorney won't allow me to appraise for sale without a valid contract"; it may be a white lie, but it's for a good purpose. You may never otherwise know about the race car included in the sale price. This is one of the fields where misinformation can cost you big in terms of civil penalties, which your E&amp;O carrier may get out of paying if it can prove you never attempted to use and DISCLOSE your data sources, whether it be a contract or a data vendor.</p>
11	Occupant / Owner	Frequent Misrep	<p>NEVER fail to verify occupancy or ownership; it's the nexus around which frauds are perpetrated. NEVER fail to ask for a title report. You don't have to obtain one, but consider refusing the assignment when you smell something fishy or lean on your friend at a title company for help. Sometimes you can figure out from documentation what title company is handling the refinance or sale closing.</p>

12	Occupant / Tenant	Frequent Misrep	Appraiser may accept the seller's claim of \$1,150 rent from the property, for example, yet the tenant has the same last name as seller. Is \$1,150 really the market rent? Look for family involvement in refinance and sale of rental property where there is pressure for a high or low conclusion. When any party to a transaction says things like, "you know my property's worth at least \$X, right?", or "This rec room addition cost me \$40,000", consider refusing the assignment. The time expended in confrontation when you come in with an accurate value is often not worth the headache. Many an appraiser citation has been written by the enforcement buyer who can document that he paid too much
13	Occupant / Vacant	Frequent Misrep	Do not mark the subject vacant if the only thing you have to go on is, say, the agent's word. If the place looks lived in, it probably is. A party to the transaction may say that it looks lived in only because it's been "professionally staged"; ask which staging company was used as you're looking to sell soon also. Subtle questions can bring out the truth.
14	Urban, Suburban, Rural?	Error/Misrep	98.6% of appraisers look to their descending colon for the answer to this question. Make sure you can support your determination. Why? It's been customary for many years to reduce allowable loan-to-value ratio by 500 basis points if the subject property is in a rural location. Some indicators are rural postal routes, distance from retail services

15	Neighborhood Section	Error or a chronic conduct issue in by assuming property location	<p>Market condition is the one thing left that appraisal clients truly need, and some still assume that the appraiser's word is golden, when too many practitioners "make it up" or fail to disclose that some or all opinions may be from secondhand data sources. If you're not going to do it, disclose it. Consider this section to be a "mini-1004MC" that states current stability in terms of document recent trends, not forgetting that a market in which appreciation is strong may still be unstable. How vulnerable is the subject property? Have you accounted for the "Google Effect"? It is in this section that appraisers should defend their "geographic competence" if necessary if you're not based in the subject neighborhood or office node, at least call an appraiser from the area to acquire the local lore; available data may have made such defense less important, but places like my home in Pittsburgh, PA, would increase in value if moved across the street because the city has 90 distinct neighborhoods and boroughs, each with its own brand of appeal and price range. Also, speaking of location, ALWAYS examine the tax assessor's plat map; if it has dashed lines running across the property, you may be missing an easement which could represent functional obsolescence or a negative externality. When in doubt, access the county recorder's information, even if you have to go to the recorder's plant. Agreements running with the land can throw your value WAY off.</p>
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16	Site Section	Susceptible to Error	<p>In the site section, your attention to detail really shows; you are responsible for applying the correct zoning description and code, especially as it applies to approved land use and property type. Such detail ranges from foundation cracks over 1/4" to whether the local planning authority has approved the subject property's accessory unit. There are a bunch of checkboxes in this sections; make sure you do not "boilerplate" them. One recent citation involved an appraisal that stated that there was no sump pump, evidence of dampness or infestation, or settlement, when the property had all four. and a later cost to cure estimate over \$25,000, which should have been subtracted from the value conclusion. <b>Buyer was complainant, of course, and collected the shortfall from the appraiser, who had let E&amp;O coverage lapse.</b></p>
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17	Subject Condition	Gross Misrep of Accurate CU and DU Codes	<p>This field is susceptible to gross error as well as conduct violations, partly because the GSE guidelines on how to assign condition codes to the subject and property are incorrectly and sometimes duplicitously adhered to. A GSE kickback of your appraisal report does not normally generate a complaint to your state agency, but when they are filed, they always return to the bottom line of the market approach; <b>The best way to avoid trouble is to assiduously use only sales that are the most recent, proximate and similar to the subject.</b> Some or all comps are market C2 when they should have been C4; on review, a complaint can be generated by the lender or the investigator, and inevitably result in an Accusation with possible license restrictions or even revocation if the intent to deceive is obvious.</p>
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**As you can see above, between 2013 and today, volume peaked in early 2013, declined, then peaked again in 8/16. The most recent peak was in early 2018. Today, it has declined and then came up a little. For many appraisers, volume started dropping in early 2017 and has been going up and down since then. The forecast is fewer loans in 2018 due to increasing interest rates. This is a good demonstration of the ups and downs of mortgage lending.**

The survey covers approximately 75 percent of all U.S. retail residential mortgage applications, and has been conducted weekly since 1990. Respondents include mortgage bankers, commercial banks and thrifts. Base period and value for all indexes is March 16, 1990=100.

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