

Code of Professional Ethics *and* Explanatory Comments

Effective May 6, 2021

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Preamble to the Appraisal Institute Code of Professional Ethics

1 Real estate is one of the basic sources of wealth in the global economy. Therefore, those
2 who own, manage, sell, purchase, invest in, or lend money on the security of real estate must
3 have ready access to the services of individuals who provide unbiased opinions of value, as
4 well as sound information, analyses, and advice on a wide range of issues related to property
5 economics. For these reasons, the services of valuation professionals are vital to the well-
6 being of our society and the global economy, and foster economic growth, stability, and
7 public confidence.

8
9 Because of this vital role and a commitment to professionalism, the Appraisal Institute has
10 adopted a Code of Professional Ethics and Standards of Professional Practice to establish
11 requirements for ethical and competent practice. These requirements also serve to promote
12 and maintain a high level of public trust and confidence in Appraisal Institute Designated
13 Members, Candidates, Practicing Affiliates, and Affiliates.

14
15 The Code of Professional Ethics contains:

- 16
17
 - Definitions;
 - Canons, which are statements of fundamental ethical principles; and
 - Ethical Rules, which are enforceable statements of required and prohibited conduct.
- 18
19
20

21 The Appraisal Institute has also issued Explanatory Comments to the Code of Professional
22 Ethics. The Explanatory Comments help provide non-exclusive context and guidance as to
23 the meaning, interpretation and application of the Canons and Ethical Rules, as well as
24 illustrative but not exhaustive examples of certain types of required or prohibited conduct.
25 The Explanatory Comments play an important role in the application of the Code of
26 Professional Ethics and may be taken into consideration during enforcement proceedings.
27 However, individuals are charged with violations only of the Ethical Rules.

28

29 If a Designated Member, Candidate, Practicing Affiliate or Affiliate acts unethically in violation
30 of any of the Ethical Rules, he or she will be subject to disciplinary or remedial action under
31 Regulation No. 6 of the Appraisal Institute.

32

33 The commitment of Appraisal Institute Designated Members, Candidates, Practicing
34 Affiliates, and Affiliates to professionalism extends to helping ensure that others act ethically
35 and competently. Therefore, each Designated Member, Candidate, Practicing Affiliate, and
36 Affiliate has a responsibility to refer any significant factual information that reasonably
37 suggests that another Designated Member, Candidate, Practicing Affiliate, or Affiliate may
38 have acted unethically in violation of the Ethical Rules or failed to comply with the Standards
39 of Professional Practice to the Professional Practice Department. Each Designated Member,
40 Candidate, Practicing Affiliate, and Affiliate also has a responsibility to serve on peer review
41 committees for the Appraisal Institute upon request, if eligible.

Definitions

42 The following definitions apply to this Code of Professional Ethics. All instances of the following terms
43 in the Code of Professional Ethics shall have the definitions below.

44

45 **Appraisal**

46 The act or process of developing an opinion of value; an opinion of value. An appraisal must be
47 numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not
48 more than, more than, not less than, less than) to a stated amount.

49

50 **Assignment Results**

51 Opinions and conclusions developed in an appraisal or review.

52

53 **Biased**

54 Not reasonably supported, and favoring or promoting the cause or interest of the client, one's self, or
55 another.

56

57 **Client**

58 The individual, group or entity who engage a Valuer to perform a service.

59

60 **Confidential Information**

61 Information that is either:

62

63 • identified by the client as confidential when providing it to a Valuer and that is not available
64 from any other source; or

65

66 • classified as confidential or private by applicable law or regulation.

67

68 **Credible**

69 Worthy of belief; supported by analysis of relevant information. Credibility is always measured in the
70 context of Intended Use.

71

72 **Duly Authorized Representative**

73 An individual granted authority by the Appraisal Institute or one of its Committees to perform a
74 specific action.

75

76 **Engagement**

77 An agreement between a Valuer and a client to provide a service.

78

79 **Hypothetical Condition**

80 A condition that is presumed to be true when it is known to be false.

81

82 **Intended Use**

83 The Valuer's intent as to how the Report will be used.

84 **Intended User**

85 The party or parties the Valuer intends will use the Report.

86

87 **Justified**

88 Reasonably supported.

89

90 **Know or Knowingly**

91 The individual realizes what he or she is doing, is aware of the nature of his or her conduct, and is not
92 acting through mistake or accident.

93

94 Comment: Knowledge can be inferred from the individual's conduct and from
95 all the facts and circumstances surrounding the conduct. A determination of
96 "knowingly" should be made in the context of the individual's training,
97 background, and experience. An individual may have acted (or failed to act)
98 "knowingly" if he or she acted in disregard of the requirements of this Code of
99 Professional Ethics or applicable Standards of Professional Practice or the
100 profession's recognized methods and techniques such as those set forth in
101 Appraisal Institute courses, seminars, textbooks, and other publications. The
102 term "knowingly" includes not only what the individual knew, but also what
103 the individual reasonably should have known given all the facts and
104 circumstances of the conduct and the individual's training, background, and
105 experience.

106

107 **Moral Turpitude**

108 An act of baseness, vileness, or depravity in private and social duties which a person owes to other
109 people or to society in general; an act contrary to accepted and customary rules of right and duty
110 between people; in essence contrary to justice, honesty, or good morals.

111

112 **Personal Characteristic**

113 A trait of an individual or group of individuals such as race, color, religion, national origin, gender,
114 sexual orientation, gender identity or expression, marital status, familial status, age, receipt of public
115 assistance income or disability. Some personal characteristics may also be protected characteristics
116 or classes under applicable law.

117

118 **Relevant Documentation or Information**

119 Documentation or information the Appraisal Institute or one of its duly authorized representatives
120 believes may be relevant in fulfilling its responsibilities.

121

122 **Relevant Question**

123 A question that the Appraisal Institute or one of its duly authorized representatives believes may be
124 relevant in fulfilling its responsibilities.

125

126

127

128 **Report**

129 The final communication, written or oral, of an appraisal or review transmitted to the
130 client. Finality is evidenced by the presence of the Valuer's signature in written
131 communication or a statement of finality in the oral communication of assignment
132 results. All communications to the client prior to the final communication must be
133 conspicuously designated as such.

134

135 **Review**

136 The act or process of developing and communicating an opinion to a client about the quality of
137 another's appraisal or review Report.

138

139 **Special Assumption**

140 An assumption, directly applicable to a specific appraisal or review, which, if found to be false, could
141 alter the opinions or conclusions in an appraisal or review.

142

143 **Valuation Practice**

144 Services performed by an individual acting as a Valuer, including but not limited to providing appraisal
145 and review opinions.

146

147 **Value**

148 The monetary relationship between properties and those who buy, sell, or use those properties.
149 Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth
150 of a property at a given time in accordance with a specific definition of value. In Valuation Practice,
151 value must always be qualified - for example, market value, liquidation value, or investment value.

152

153 **Valuer**

154 One who is expected to engage in Valuation Practice in an unbiased and competent manner. This
155 term is synonymous with appraiser.

Exceptions to the Ethical Rules

156 If any part of an Ethical Rule is contrary to a law or regulation of any jurisdiction, such part shall be
157 void and of no force or effect in such jurisdiction.

158

159 When an individual violates an Ethical Rule due to an event beyond the individual's control, such as
160 an act of God or illness, the Investigator or peer review committee(s) (or any member or duly
161 authorized representative thereof) reviewing the conduct should consider such event and all the
162 relevant facts about the case to avoid an inequitable result.

163 **Canon 1: One Must Refrain from Conduct that is Detrimental to**
164 **the Appraisal Institute, the Profession, and the Public**

165
166 **Ethical Rules**

167
168 ER 1-1

169 It is unethical to knowingly:

- 170
171 (a) act in a manner that is misleading;
172
173 (b) act in a manner that is fraudulent;
174
175 (c) use, or fail to take steps to prevent another from using, a misleading Report;
176
177 (d) transmit, or fail to take steps to prevent another from transmitting, a misleading Report; or
178
179 (e) transmit a Report containing an analysis, opinion, or conclusion that reasonable Valuers
180 would not believe to be justified.

181
182 ER 1-2

183 It is unethical to engage in conduct of any kind that leads to a conviction of a crime involving fraud,
184 dishonesty, false statements, or moral turpitude.

185
186 ER 1-3

187 In Valuation Practice it is unethical to knowingly fail to properly identify the issue to be addressed and
188 have the knowledge and experience to complete the service competently prior to agreeing to perform
189 a service, or alternatively, to:

- 190
191 (a) disclose the lack of knowledge and/or experience to the client before agreeing to perform the
192 service;
193
194 (b) take all steps necessary or appropriate to complete the service competently; and
195
196 (c) describe the lack of knowledge and/or experience and the steps taken to complete the
197 service competently in the Report.

198
199 ER 1-4

200 In Valuation Practice it is unethical in the performance of a service to knowingly fail to:

- 201
202 (a) identify appropriate Standards to apply; and
203
204 (b) disclose in any Report the Standards applied.
205

206 ER 1-5

207 It is unethical:

208

209 (a) To base an analysis, opinion, or conclusion, either partially or completely, on a personal
210 characteristic such as race, color, religion, national origin, gender, sexual orientation, gender
211 identity or expression, marital status, familial status, age, receipt of public assistance income,
212 disability, or any protected characteristic under applicable law, or a conclusion that
213 homogeneity of such characteristics is necessary to maximize value; and

214

215 (b) To transmit a Report containing an analysis, opinion or conclusion based, either partially or
216 completely, on a personal characteristic such as race, color, religion, national origin, gender,
217 sexual orientation, gender identity or expression, marital status, familial status, age, receipt of
218 public assistance income, disability, or any protected characteristic under applicable law, or a
219 conclusion that homogeneity of such characteristics is necessary to maximize value.

220

221 Ethical Rules 1-5(a) and 1-5(b) do not apply when applicable law or regulation either requires or does
222 not prohibit consideration of a personal characteristic, and consideration of that personal
223 characteristic is relevant to the analysis, opinion, or conclusion.

224 **Canon 2: One Must Assist the Appraisal Institute in Fulfilling Its**
225 **Role Relating to Qualifications and Compliance with Ethics and**
226 **Standards**

227 **Ethical Rules**

228 ER 2-1

229 It is unethical:

230

231 (a) to knowingly violate the confidentiality obligations set forth in the Bylaws, Regulations,
232 policies and procedures of the Appraisal Institute.

233

234 (b) to fail to keep knowledge of a referral initiating a peer review proceeding or knowledge of any
235 subsequent screening or review of the matter confidential.

236

237 ER 2-2

238 It is unethical to accept an appointment to, or to fail to immediately resign from, an Appraisal Institute
239 committee or Appraisal Institute Investigator appointment dealing with an admissions matter or peer
240 review proceeding if one is unable or unwilling to fulfill the responsibilities of a member of said
241 position.

242

243 ER 2-3

244 It is unethical to knowingly:

245

246 (a) make false statements or submit misleading information to the Appraisal Institute or one of its
247 duly authorized representatives;

248

249 (b) fail or refuse to promptly submit any relevant documentation or information that is or should
250 be in one's possession or control when requested to do so by the Appraisal Institute or one of
251 its duly authorized representatives;

252

253 (c) fail or refuse to promptly answer all relevant questions when requested to do so by the
254 Appraisal Institute or one of its duly authorized representatives;

255

256 (d) fail or refuse to appear for a personal interview or participate in an interview conducted by
257 telephone when requested to do so by the Appraisal Institute or one of its duly authorized
258 representatives;

259

260 (e) fail to comply with the terms of a summons issued by a duly authorized Hearing Committee;

261

262 (f) fail or refuse to cooperate with the Appraisal Institute or one of its duly authorized
263 representatives; or

264

265 (g) fail or refuse to fulfill each obligation under the Bylaws, Regulations, policies and procedures
266 of the Appraisal Institute.

267 ER 2-4

268 It is unethical for a Valuer to fail to maintain records, documented on any type of media, for each
269 Report.

270

271 (a) Records for a written Report must include:

272

273 • a copy of the written Report(s); and

274

275 • any other data, information, and documentation necessary to support the Valuer's
276 analyses, opinions and conclusions and to show compliance with the Code of
277 Professional Ethics and Standards of Professional Practice of the Appraisal Institute, or
278 references to the location(s) of such other documentation accessible to the Valuer.

279

280 (b) Records for an oral Report must include:

281

282 • the name of the client and the identity, by name or type, of any other Intended User(s);

283

284 • the Valuer's signed and dated certification;

285

286 • a written summary of the oral Report, or, if the presentation is in the form of
287 testimony, a transcript of that testimony may be retained in the file in place of the
288 summary; and

289

290 • all other data, information, and documentation necessary to support the Valuer's
291 analyses, opinions and conclusions and to show compliance with the Code of
292 Professional Ethics and Standards of Professional Practice of the Appraisal Institute,
293 or references to the location(s) of such other documentation accessible to the Valuer.

294

295 A Valuer must possess the required records prior to the transmission of a Report.

296

297 ER 2-5

298 In Valuation Practice it is unethical to fail to retain required records for:

299

300 (a) a period of five years from the date of the completion of the service;

301

302 (b) a period of two years following final disposition of a proceeding in which the Valuer gave
303 testimony as part of the service;

304

305 (c) a period commencing upon notification that a service is the subject of a peer review
306 proceeding under Regulation No. 6 until notification by the Appraisal Institute of final
307 disposition of such peer review proceeding;

308

309 (d) a period commencing upon a request from Admissions relating to a service until notification
310 by the Appraisal Institute of the completion of review by Admissions; or

311 (e) a period of two years following the final disposition of a review of a service by a governmental
312 licensing or credentialing body;
313
314 whichever period shall be the last to expire.

315

316 ER 2-6

317 It is unethical to enter into a contract with one or more obligations that are inconsistent with the
318 requirements of the Code of Professional Ethics, Standards of Professional Practice, Bylaws, or
319 Regulations of the Appraisal Institute.

320

321 ER 2-7

322 It is unethical to fail to sincerely and demonstrably seek other employment if one knows:

323

324 (a) that the employer prevents one from complying with the requirements of the Code of
325 Professional Ethics or Standards of Professional Practice of the Appraisal Institute; or

326

327 (b) that one's employer fails to comply with the Code of Professional Ethics or Standards of
328 Professional Practice of the Appraisal Institute.

329 **Canon 3: In Valuation Practice, a Valuer Must Develop and**
330 **Report Unbiased Analyses, Opinions, and Conclusions**

331 **Ethical Rules**

332 ER 3-1

333 In Valuation Practice it is unethical to knowingly contribute to or participate in the development,
334 preparation, use or reporting of an analysis, opinion, or conclusion that is biased.

335

336 ER 3-2

337 In Valuation Practice it is unethical to knowingly permit an entity that is wholly or partially owned or
338 controlled by a Valuer to contribute to or participate in the development, preparation, use, or reporting
339 of an analysis, opinion, or conclusion that is biased.

340

341 ER 3-3

342 In Valuation Practice it is unethical to provide a service that is contingent upon reporting a
343 predetermined analysis, opinion or conclusion.

344

345 ER 3-4

346 In Valuation Practice it is unethical to provide a service that includes a Hypothetical Condition, unless:

347

348 (a) use of the Hypothetical Condition is required for legal purposes, for purposes of reasonable
349 analysis, or for purposes of comparison;

350

351 (b) use of the Hypothetical Condition results in a credible analysis; and

352

353 (c) the Valuer complies with the applicable disclosure requirements set forth in the applicable
354 Standards for Hypothetical Conditions.

355

356 ER 3-5

357 In Valuation Practice it is unethical to provide a service that includes a Special Assumption unless:

358

359 (a) the Special Assumption is required to properly develop credible opinions and conclusions;

360

361 (b) the Valuer has a reasonable basis for the Special Assumption;

362

363 (c) use of the Special Assumption results in a credible analysis; and

364

365 (d) the Valuer complies with the applicable disclosure requirements set forth in the applicable
366 Standards for Special Assumptions.

367

368 ER 3-6

369 In Valuation Practice it is unethical to provide a service if a Valuer has any direct or indirect, current,
370 or prospective personal interest in the subject or outcome of the service or with respect to the parties
371 involved in the service, unless:

372

373

(a) prior to agreeing to provide the service, the Valuer carefully considers the facts and reasonably concludes that he or she would remain unbiased and reasonable persons, under the same circumstances, would reach the same conclusion;

374

375

376

(b) such personal interest is disclosed to the client prior to the Valuer agreeing to provide the service; and

377

378

(c) such personal interest is disclosed in each Report or other communication provided to the client resulting from such service.

379

380

381

382

ER 3-7

383

In Valuation Practice it is unethical, during the period that commences at the time that a Valuer is contacted concerning a service and expires at the completion of such service, to knowingly acquire, or plan to acquire any direct or indirect, current, or prospective personal interest in the subject or outcome of the service or with respect to the parties involved in the service, unless:

384

385

386

387

(a) the Valuer carefully considers the facts and reasonably concludes that he or she would remain unbiased and reasonable persons, under the same circumstances, would reach the same conclusion;

388

389

390

391

(b) such personal interest is disclosed to the client and the Valuer obtains from the client a written statement consenting to or approving such acquisition or change of position; and

392

393

(c) such personal interest is disclosed in each Report or other communication provided to the client resulting from such service.

394

395

396

397

398 Canon 4: One Must Not Violate Confidentiality

399 Ethical Rules

400 ER 4-1

401 In Valuation Practice it is unethical to disclose confidential information or an analysis, opinion, or
402 conclusion specific to a service to anyone other than:

403

404 (a) the client and those persons specifically authorized by the client;

405

406 (b) third parties, when and to the extent that there is a legal obligation to do so by statute,
407 ordinance, or court or regulatory order;

408

409 (c) legal counsel, as reasonably necessary in the event of actual or threatened legal or
410 regulatory action;

411

412 (d) authorized insurance representatives, for the purpose of seeking or maintaining professional
413 liability insurance coverage; and

414

415 (e) the duly authorized Investigators and peer review or admissions committees of the Appraisal
416 Institute.

417

418 ER 4-2

419 It is unethical for a current or former Appraisal Institute Investigator or peer review or admissions
420 committee member to discuss or disclose confidential information, analyses, opinions, conclusions, or
421 factual data derived through investigative or committee activities with anyone other than:

422

423 (a) the individual whose Report or file contains the confidential information, analyses, opinions,
424 conclusions, or factual data;

425

426 (b) the client and those persons specifically authorized by that client to receive the confidential
427 information, analyses, opinions, conclusions, or factual data;

428

429 (c) third parties, when and to the extent that the Investigator or committee member is legally
430 required to do so by statute, ordinance, or court order; and

431

432 (d) Investigators and committee members and their duly authorized representatives within the
433 scope of the Bylaws and Regulations of the Appraisal Institute.

434 **Canon 5: One Must Not Advertise or Solicit in a Manner that is**
435 **Misleading or Otherwise Contrary to the Public Interest**

436 **Ethical Rules**

437 ER 5-1

438 It is unethical to utilize misleading advertising. Further, it is unethical to knowingly permit a business
439 entity that one wholly or partially owns or controls to utilize misleading advertising.

440

441 ER 5-2

442 It is unethical to use or refer to the Appraisal Institute or its membership designations in a manner that
443 is misleading, or to use or display the registered designations, logos, or emblems of the Appraisal
444 Institute in a manner contrary to Regulation No. 5.

445

446 ER 5-3

447 It is unethical to solicit services in a misleading manner. Further, it is unethical to knowingly permit an
448 entity one wholly or partially owns or controls to solicit services in a misleading manner.

449

450 ER 5-4

451 It is unethical to fail to disclose in the Report the payment by the Valuer, or by an entity wholly or
452 partially owned or controlled by the Valuer, of a referral fee, in cash or kind, paid in connection with
453 the procurement of a service.

454

455 ER 5-5

456 It is unethical to prepare or use in any manner a resume or statement of qualifications that is
457 misleading.

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Explanatory Comments to Code of Professional Ethics

1 The Explanatory Comments help provide non-exclusive context and guidance as to the meaning,
2 interpretation and application of the Canons and Ethical Rules, as well as illustrative but not
3 exhaustive examples of certain types of required or prohibited conduct. The Explanatory Comments
4 play an important role in the application of the Code of Professional Ethics and may be taken into
5 consideration during enforcement proceedings. However, individuals are charged with violations only
6 of the Ethical Rules.

7 Explanatory Comments to Canon 1

8

9 Canon 1 Comment

10 Public confidence and trust in Appraisal Institute Members, Candidates, Practicing Affiliates, Affiliates,
11 and the profession is essential to the well-being of our society and the global economy. The Appraisal
12 Institute serves a vital public need by:

13

- 14 • educating and training valuation professionals,
- 15 • conferring professional membership designations on individuals who meet stringent
16 requirements, and
- 17 • conducting peer review that enhances the quality of work product and deters unethical
18 conduct.

19

20 In turn, the work of Appraisal Institute Members, Candidates, Practicing Affiliates and Affiliates fosters
21 economic growth and stability. If a Member, Candidate, Practicing Affiliate or Affiliate engages in
22 conduct that is detrimental to the Appraisal Institute, the profession or the public, such individual
23 undermines the public confidence and trust that is necessary for the Appraisal Institute, Members,
24 Candidates, Practicing Affiliates, Affiliates and the profession to perform their vital roles in our society
25 and the global economy.

26

27 **ER 1-1(a) and (b) Comment**

28 If an Appraisal Institute Member, Candidate, Practicing Affiliate or Affiliate knowingly acts in a
29 misleading or fraudulent manner when engaged in Valuation Practice or when engaged in an activity
30 unrelated to Valuation Practice, such individual harms the reputation of the Appraisal Institute, its
31 Members, Candidates, Practicing Affiliates, Affiliates and the profession, thereby undermining the
32 confidence and trust that the public and clients must have in the integrity of the Appraisal Institute,
33 Members, Candidates, Practicing Affiliates, Affiliates and the profession.

34

35 If an individual acts in a misleading or fraudulent manner in activity unrelated to Valuation Practice,
36 the public and clients can legitimately question whether such a lack of personal integrity will impact
37 any services such individual performs. Therefore, ER 1-1(a) and ER 1-1(b) apply to all conduct,
38 including conduct unrelated to Valuation Practice.

39 An example of a violation of ER 1-1(a) is if a Valuer prepares a Report that includes information that
40 he or she knows or should know will lead the Intended User(s) of the Report to an improper
41 conclusion.

42

43 A second example of a violation of ER 1-1(a) is if an individual misleads the Appraisal Institute by an
44 act of omission or commission as to his or her eligibility for a particular status or category of
45 membership, candidacy or affiliation.

46

47 An example of a violation of ER 1-1(b) is if one acts in a fraudulent manner while engaged in real
48 estate brokerage. Any such fraudulent conduct would be contrary to the public interest and would
49 reflect adversely upon the individual; Members, Candidates, Practicing Affiliates and Affiliates
50 generally; the Appraisal Institute; and the profession.

51

52 **ER 1-1(c) and (d) Comment**

53 ER 1-1(c) prohibits a Valuer from knowingly using a misleading Report. ER 1-1(c) further requires that
54 a Valuer must take steps to prevent another from using a misleading Report, whether the Report was
55 prepared by the Valuer or by another individual.

56

57 Examples of violations of ER 1-1(c) include, but are not limited to, the following:

58

- 59 • a Valuer allows a client to use a Report that contains a misleading analysis of comparable
60 sales.
- 61 • a Valuer develops a misleading opinion concerning the appropriate depreciation for an
62 industrial building and provides the opinion to another Valuer to use in a Report.

63

64 ER 1-1(d) prohibits a Valuer from transmitting a misleading Report. ER 1-1(d) further requires that a
65 Valuer must take steps to prevent another from transmitting a misleading Report whether the Report
66 was prepared by the Valuer or by another individual.

67

68 Examples of violations of ER 1-1(d) include, but are not limited to, the following:

69

- 70 • a Valuer transmits a Report to a client that contains a misleading analysis of comparable
71 sales.
- 72 • a Valuer allows an independent contractor to transmit a Report containing a misleading
73 highest and best use conclusion to a client.

74

75 **ER 1-1(e) Comment**

76 A Valuer must not transmit a Report that contains an analysis, opinion, or conclusion that is not
77 justified. To do so harms the public interest and undermines public and client confidence in the
78 Valuer; Valuers generally; the Appraisal Institute; and the profession.

79

80 The test under ER 1-1(e) is whether reasonable Valuers would believe the analysis, opinion, or
81 conclusion to be justified. Valuers can and do differ as to the appropriate solutions to a valuation
82 issue. If, however, reasonable Valuers conclude that an analysis, opinion or conclusion is not

83 reasonably supported, then such analysis, opinion or conclusion would not be justified under this
84 Ethical Rule. Evidence that a Report contains an analysis, opinion or conclusion that reasonable
85 Valuers would not believe to be justified may include, but is not limited to, analyses, opinions and
86 conclusions developed through unsupported and unreasonable appraisal or review practices. The
87 Appraisal Institute Guide Notes to the Standards of Professional Practice and Appraisal Institute
88 courses, seminars, and textbooks such as *The Appraisal of Real Estate* identify many reasonable
89 appraisal and review practices.

90

91 This Ethical Rule applies regardless of whether the Valuer signed the Report.

92

93 Examples of violations of ER 1-1(e) include, but are not limited to, the following:

94

- 95 • a Valuer transmits a Report in which the value of a property is not reasonably supported.
- 96 • a Valuer transmits a Report to a client that was signed by another individual that contains a
97 sales comparison approach that is not reasonably supported.

98

99 **ER 1-2 Comment**

100 The public and clients must have confidence in the personal honesty and integrity of Appraisal
101 Institute professionals, whom they entrust with matters of critical personal, corporate, and public
102 importance. If a Member, Candidate, Practicing Affiliate or Affiliate fails to comply with his or her legal
103 obligations to society in all activities, not just when engaged in Valuation Practice, the public and
104 clients will lose confidence and trust in the honesty and integrity of the individual; Members,
105 Candidates, Practicing Affiliates, and Affiliates generally; and those who practice the profession. The
106 public and clients will also lose confidence and trust in the Appraisal Institute. As a consequence, the
107 ability of Members, Candidates, Practicing Affiliates, Affiliates, the profession, and the Appraisal
108 Institute to perform their vital roles in our society and the global economy will be adversely affected.

109

110 Failure to comply with obligations to society, particularly relating to fraud, dishonesty, false
111 statements or moral turpitude, can legitimately lead the public and clients to question whether an
112 individual will fail to comply with his or her obligations under the Code of Professional Ethics and
113 Standards of Professional Practice of the Appraisal Institute. The crimes referred to in ER 1-2 are not
114 limited to felonies.

115

116 One example of a violation of ER 1-2 is to be convicted of a crime for preparing a fraudulent appraisal
117 as part of a “flipping scheme.” A second example is being convicted of a crime for underreporting
118 taxable income.

119

120 Under Appraisal Institute Regulation No. 6, a violation of ER 1-2 will result in automatic expulsion
121 from membership, candidacy or affiliation in the Appraisal Institute subject to the right of appeal.

122

123 **ER 1-5 Comment**

124 By definition, a Valuer must be unbiased. A Valuer’s opinions and conclusions must be prepared in
125 an unbiased manner, and they must be credible, which means they must be supported with relevant
126 data and analyses.

127 Valuers and Reviewers have a professional responsibility to ensure that appraisals are prepared fairly
128 and without bias relating to personal characteristics. Personal characteristics are characteristics of an
129 individual or group of individuals such as (but not limited to) race, color, religion, national origin,
130 gender, sexual orientation, gender identity or expression, marital status, familial status, age, receipt of
131 public assistance income, disability, or any protected characteristic under applicable law.

132

133 The characteristics of people – including but not limited to people who occupy a subject property, live
134 in the area, or are in any way associated with a transaction – are, with limited exceptions, not relevant
135 to the development of any value opinion. Relevant characteristics in the valuation of a property
136 include its physical and economic characteristics, not the personal, not the personal characteristics of
137 those who are in any way connected to the property. Value is an economic concept. Value is created
138 because there is effective demand, not because of the characteristics of people.

139

140 Appraisers must collect and analyze relevant data to develop their opinions and conclusions.

141 Appraisers must avoid misinterpreting data, using data to develop conclusions that are not credible,
142 and transmitting reports that are misleading. They must avoid conclusions about causality that are not
143 grounded in fact.

144

145 Appraisers must also avoid preconceived notions about buyer preferences. For example, just
146 because an area has a high percentage of properties with deferred maintenance does not mean there
147 is low demand for properties in that area. Just because there are properties that are larger or in better
148 condition does not mean there is no demand – or less demand -- for properties that are smaller or in
149 inferior condition.

150

151 In valuing property, appraisers must consider effective demand. Are there buyers or renters in the
152 market who are willing and able to buy or rent the property? The personal characteristics of those
153 buyers or renters, or of others associated with the property or transaction, is irrelevant.

154

Explanatory Comments to Canon 2

Canon 2 Comment

The Appraisal Institute serves a vital public need by:

- conferring professional membership designations on individuals who meet stringent requirements,
- conducting peer review that enhances the quality of work product and deters unethical conduct,
- conducting a continuing education program, and
- establishing and conducting other programs that advance the profession and valuation professionals.

As a result of these programs, the public associates Appraisal Institute Members, Candidates, Practicing Affiliates and Affiliates with a high degree of personal integrity and a commitment to professionalism. To maintain the reputation of the Appraisal Institute and its professionals and facilitate these critical objectives, Members, Candidates, Practicing Affiliates and Affiliates must comply with all confidentiality obligations set forth in the Bylaws, Regulations, policies and procedures of the Appraisal Institute. They must also fulfill committee responsibilities; cooperate with appropriate committees; prepare and preserve records; and ensure that they do not place themselves in a position where they cannot comply with the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute.

ER 2-1 Comment

Confidentiality:

- encourages Candidates to advance their qualifications through the designation process;
- encourages peer review to occur;
- fosters candid and valuable interchange on the issues of qualifications and the quality of services;
- helps ensure that the consequences of an admissions matter or peer review proceeding are proper and proportionate; and
- helps ensure that the Appraisal Institute can govern itself effectively.

If a Member, Candidate, Practicing Affiliate or Affiliate fails to observe confidentiality rules, the judicial protection given to the Appraisal Institute, especially with respect to admissions matters and peer review proceedings, may erode, thereby impairing the ability of the Appraisal Institute to fulfill critical functions. Such a result would harm the public, the Appraisal Institute, its Members, Candidates, Practicing Affiliates, Affiliates and the profession. All Bylaws, Regulations, policies and procedures regarding confidentiality of admissions, peer review, governance and other matters must be scrupulously observed.

196 **ER 2-2 Comment**

197 While the Appraisal Institute recognizes that individuals who serve on committees dealing with
198 admissions matters and peer review proceedings are volunteers, such individuals must fulfill their
199 responsibilities diligently, objectively, and completely for the Appraisal Institute to effectively fulfill its
200 vital functions.

201

202 **ER 2-3 Comment**

203 The Articles of Incorporation, Bylaws, and Regulations of the Appraisal Institute provide the authority
204 for the Appraisal Institute and the establishment, powers, and duties of various committees. As a
205 corporate entity, the Appraisal Institute will fulfill its functions and exercise its authority through
206 various duly authorized representatives. Committees of the Appraisal Institute will sometimes fulfill
207 their powers and duties as committees of the whole, but such committees may also carry out some
208 powers and duties through individual members of the committees and duly authorized
209 representatives. For the Appraisal Institute to effectively carry out critical functions, including, but not
210 limited to, peer review, admissions, and continuing education, the obligations under ER 2-3 extend
211 not only to the Appraisal Institute but also to its duly authorized representatives.

212

213 Under Regulation No. 6 of the Appraisal Institute, a violation of ER 2-3(b), (c), or (d) will result in
214 automatic expulsion from membership, candidacy or affiliation in the Appraisal Institute subject to the
215 right of appeal.

216

217 Strict adherence to the Bylaws, Regulations, policies and procedures of the Appraisal Institute is
218 required when participating in the governance of the organization. Failure to do so can make
219 governance ineffective and harm the interests of the Appraisal Institute. For example, everyone
220 involved in governance must adhere strictly to any confidentiality obligations set forth in the Bylaws,
221 Regulations, policies and procedures of the Appraisal Institute. Additionally, they must adhere strictly
222 to the Appraisal Institute Antitrust Policy.

223

224 Examples of violations of ER 2-3 include, but are not limited to, the following:

225

- 226 • ER 2-3(a): A Designated Member submits a continuing education log to the Appraisal
227 Institute that represents that the individual took a course that the individual did not in fact take
228 or that represents that the course provided a greater number of hours of continuing education
229 than it actually did.
- 230 • ER 2-3(b): A Practicing Affiliate fails to promptly comply with a request for information or
231 documentation from an Appraisal Institute Investigator that the individual was required to
232 preserve under ER 2-5.

233

234 **ER 2-4 Comment**

235 The Appraisal Institute has promulgated the Code of Professional Ethics and Standards of
236 Professional Practice in part to establish requirements that will help ensure that Valuers will transmit
237 credible analyses, opinions, and conclusions. Such requirements also give the public and client's
238 confidence that a Valuer's analyses, opinions, and conclusions are based on sound data and

239 reasoning, and that such analyses, opinions, and conclusions are not predetermined or mere
240 speculation.

241

242 This Ethical Rule ensures that Valuers will be able to provide support for their analyses, opinions, and
243 conclusions to clients, courts, the Appraisal Institute, regulatory agencies, and others. The required
244 records provide evidence of whether a Valuer has complied with the Code of Professional Ethics and
245 Standards of Professional Practice.

246

247 **ER 2-5 Comment**

248 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review, the
249 Appraisal Institute and its duly authorized representatives must have access to relevant records.
250 Valuers have a responsibility to consider and correctly apply the factors that can affect the retention
251 period for records before disposing of such records. For example, if a Valuer prepares an appraisal
252 on April 30, 2017, the Valuer must initially maintain records relating to that appraisal until at least April
253 30, 2022. If, however, the Valuer then gives testimony on April 15, 2020, in a judicial proceeding
254 concerning the appraisal and the judicial proceedings are not completed until May 30, 2021, the
255 retention period changes and the records must be maintained until at least May 30, 2023.

256

257 **ER 2-6 Comment**

258 A condition of membership, candidacy or affiliation is the agreement to comply with the Bylaws,
259 Regulations, Code of Professional Ethics, and Standards of Professional Practice of the Appraisal
260 Institute. This obligation cannot be avoided by entering into a contract that is inconsistent with this
261 agreement.

262

263 **ER 2-7 Comment**

264 A condition of membership, candidacy or affiliation is the agreement to comply with the Code of
265 Professional Ethics and Standards of Professional Practice of the Appraisal Institute. Responsibility
266 for the failure to comply with such requirements cannot be avoided by a Member, Candidate,
267 Practicing Affiliate or Affiliate because an employer prevents him or her from complying. Because the
268 Code of Professional Ethics and Standards of Professional Practice elevate the quality of services
269 provided in the marketplace and enhance confidence of the public and clients in the profession,
270 Ethical Rule 2-7 also requires that a Member, Candidate, Practicing Affiliate or Affiliate demonstrably
271 seek other employment if he or she knows that his or her employer fails to comply with the
272 requirements of the Code of Professional Ethics or Standards of Professional Practice.

273

274 For example, if a Designated Member's employer implements a record retention policy that results in
275 the disposal of records that must be retained under Ethical Rule 2-5 and the employer is unwilling to
276 revise such policy, the Designated Member must demonstrably seek other employment.

277

278 Evidence that other employment has been sincerely and demonstrably sought may include, but is not
279 limited to, sending out letters seeking employment with other companies, correspondence received
280 from potential employers, a log of calls made to potential employers, or documents indicating efforts
281 to form a new business.

282 Explanatory Comments to Canon 3

283

284 Canon 3 Comment

285 Given the role that Valuers serve in our society and the global economy, the public interest demands
286 that a Valuer develop and report unbiased analyses, opinions, and conclusions. Actual and
287 perceived bias can undermine the confidence that the public and clients must have in the integrity of
288 Valuers.

289

290 Valuers also have a professional responsibility to ensure that appraisals are prepared fairly and
291 without bias relating to personal characteristics. Personal characteristics are characteristics of an
292 individual or group of individuals such as (but not limited to) race, color, religion, national origin,
293 gender, sexual orientation, gender identity or expression, marital status, familial status, age, receipt of
294 public assistance income, disability, or any protected characteristic under applicable law.

295

296 The public interest also demands that a Valuer not use an unwarranted Hypothetical Condition or
297 Special Assumption. Therefore, Canon 3 and its associated Ethical Rules prohibit a Valuer from using
298 an unwarranted Hypothetical Condition or Special Assumption and from rendering an analysis,
299 opinion, or conclusion that is not reasonably supported and that favors or promotes the cause or
300 interest of the client, the Valuer, or another.

301

302 ER 3-1 Comment

303 Evidence that a Valuer developed, prepared, used or reported a biased analysis, opinion or
304 conclusion may include, selecting comparable sales based on race, color, religion, national origin,
305 gender, sexual orientation, gender identity or expression, marital status, familial status, age, receipt of
306 public assistance income, disability, or any protected characteristic under applicable law.

307

308 Evidence that a Valuer developed, prepared, used or reported a biased analysis, opinion or
309 conclusion may include, but is not limited to, deviation from or failure to use reasonable or
310 supportable appraisal or review practices resulting in an analysis, opinion, or conclusion that is not
311 reasonably supported and that favors or promotes the client's, the Valuer's, or another's interest or
312 cause. The Appraisal Institute Guide Notes to the Standards of Professional Practice and Appraisal
313 Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate* identify many
314 reasonable appraisal and review practices.

315

316 The Intended Use of the analysis, opinion or conclusion is relevant in determining the direction of a
317 client's interest. For example, a Valuer develops and reports a value opinion for a property owner for
318 purposes of appealing his property taxes. The Valuer's appraisal is based solely on a sales
319 comparison approach. All of the comparable sales analyzed are clearly inferior to the subject
320 property in many respects, but in the adjustment grid, each comparable is shown to be similar to the
321 subject and no upward adjustments are made for differences. Reasonable appraisers would not
322 believe this opinion of value to be justified. Also, in this case, the lower the value opinion, the more
323 the property owner stands to gain if his appeal is successful. Therefore, the Valuer may have
324 developed and reported a biased opinion of value in violation of ER 3-1.

325

326 One can violate ER 3-1 by signing a Report that the Valuer has not read or has partially read, and
327 that contains a biased analysis, opinion, or conclusion. Not only is the Valuer responsible for the
328 Report by signing it, but he or she has knowingly contributed to or participated in the use and
329 reporting of an analysis, opinion, or conclusion that is biased. The Valuer acted knowingly because
330 he or she acted in disregard of the requirements of the Code of Professional Ethics and Standards of
331 Professional Practice of the Appraisal Institute.

332

333 Evidence that a Valuer performed a service under a contingent fee arrangement does not constitute
334 evidence of bias, in and of itself. Valuers are participants in the global economy. In the global
335 economy the norms for ethical practice concerning specific conduct may differ depending on
336 applicable national customs and standards. The matter of contingent fee arrangements is an example
337 of an area where the norms for ethical practice differ depending on the Standards used by the Valuer.
338 For example, the Uniform Standards of Professional Appraisal Practice (USPAP) prohibits contingent
339 fee arrangements for valuation services. On the other hand, the International Valuation Standards
340 (IVS) permits contingent fee arrangements for valuation services as long as the Valuer's fee does not
341 depend on a predetermined outcome of any valuation or other independent, objective advice
342 contained in the Report, and the Valuer discloses whether the fee is contingent upon any aspect of
343 the Report.

344

345 **ER 3-2 Comment**

346 A Valuer cannot avoid ethical responsibility by doing indirectly that which he or she cannot do directly.
347 The discussion in the ER 3-1 Comment concerning an analysis, opinion, or conclusion that is biased
348 also applies to ER 3-2.

349

350 **ER 3-3 Comment**

351 ER 3-3 does not prohibit accepting services in phases, with the ability to provide a subsequent
352 service contingent upon the results of a prior service, as long as the Valuer does not render an
353 analysis, opinion, or conclusion that is biased in any of the phases.

354

355 To illustrate the point involved, assume the following facts: A government agency makes an offer to a
356 property owner to purchase the owner's property to expand a roadway. The agency has not begun
357 condemnation proceedings at this point, but may in the future. The attorney working with the property
358 owner contacts a Valuer to obtain the Valuer's opinion as to whether the market value of the property
359 is more than the amount of the agency's offer. The Valuer prepares a Report (for the attorney's use
360 only) in which the Valuer's value opinion is "not less than" the amount of the offer. Subsequently, the
361 attorney asks the Valuer to prepare a Report (for which the Intended Users will be both the
362 government agency and the attorney for the property owner) for purposes of the condemnation
363 litigation. Note that these are two separate assignments, with different, though related, Intended Uses
364 and different Intended Users. If the Valuer accepts these assignments, the Valuer will not violate ER
365 3-3. The Valuer was required to develop and report both the first and second service in an unbiased
366 manner. Although the second service was in essence contingent on the results of the first service, it
367 was not contingent on a "predetermined" analysis, opinion, or conclusion.

368

369

370 **ER 3-4 Comment**

371 An example of the use of a Hypothetical Condition in an appraisal would be when the subject property
372 is known to be contaminated but it is valued as though it is free of contamination. Another example
373 would be when a property is appraised as though improvements exist on the site when in fact the site
374 is vacant on the date of value.

375

376 An example of a violation of ER 3-4 would be when a Valuer appraises a subject property as though it
377 is zoned for commercial use when in fact zoning would prohibit such use, and the Valuer does not
378 disclose that the appraisal is premised on such Hypothetical Condition.

379

380 **ER 3-5 Comment**

381 An example of the use of a Special Assumption in an appraisal would be when there is reason to
382 believe – though it is uncertain – that the subject property may be contaminated, but it is valued as
383 though it is free of contamination on the date of value. Another example would be the Valuer does not
384 inspect the subject property and bases the appraisal on the presumption that information provided
385 about the property (size, condition, etc.) is accurate.

386

387 An example of a violation of ER 3-5 would be when there is evidence that the subject property's
388 improvements may not be structurally sound, raising uncertainty as to their condition. The Valuer
389 appraises the property as though the improvements are structurally sound and does not disclose that
390 the appraisal is premised on a Special Assumption to that effect.

391

392 **ER 3-6 Comment**

393 If a Valuer has a personal interest in the subject or outcome of a service or with respect to the parties
394 involved in the service, such interest may provide an incentive for the Valuer to render an analysis,
395 opinion, or conclusion that is biased, misleading, or otherwise unreliable. At a minimum, such a
396 personal interest may create an appearance that any resulting analysis, opinion, or conclusion may
397 be biased, misleading, or otherwise unreliable. An analysis, opinion, or conclusion that is biased,
398 misleading, or otherwise unreliable, or that may be perceived to be so, undermines the confidence
399 and trust that the public and clients must have in Valuers.

400

401 In review assignments, "parties involved in the service" include the individual who prepared the
402 Report being reviewed.

403

404 **ER 3-7 Comment**

405 If a Valuer knowingly acquires an interest in property or assumes a position that could possibly affect
406 the Valuer's judgment or violate the Valuer's responsibilities to the client between the time the Valuer
407 is contacted concerning a service and when the Valuer completes the service, such interest or
408 change in position may provide an incentive for the Valuer to render an analysis, opinion, or
409 conclusion that is biased, misleading, or otherwise unreliable and harms the client. At a minimum,
410 such interest or change in position may create an appearance that any resulting analysis, opinion, or
411 conclusion may be biased, misleading, or otherwise unreliable and that the Valuer's interest or
412 position is in conflict with the Valuer's responsibilities to the client.

413 Explanatory Comments to Canon 4

414

415 Canon 4 Comment

416 Confidentiality is a critical component of any relationship between a Valuer and a client.

417 Confidentiality fosters full and candid disclosure of relevant information by the client. Such disclosure
418 enables the Valuer to provide credible analyses, opinions, and conclusions to the client.

419

420 ER 4-1 Comment

421 ER 4-1 sets forth the general confidentiality requirements of the Valuer-client relationship.

422

423 The client has a legitimate interest in controlling the disclosure of confidential Information, analyses,
424 opinions, and conclusions in part because the client pays for services rendered and because the
425 disclosure of such information, analyses, opinions, and conclusions may harm the client. At the same
426 time, Valuers must be able to comply with their legal, ethical and professional obligations, must be
427 able to seek and maintain professional liability insurance coverage, and must be allowed a
428 reasonable opportunity to defend themselves in a legal or regulatory action.

429

430 ER 4-2 Comment

431 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review,
432 appropriate Appraisal Institute committees and other Appraisal Institute duly authorized
433 representatives must and will have access to confidential information provided to Valuers by their
434 clients. Clients understand and are on notice that appropriate Appraisal Institute committees and
435 other Appraisal Institute duly authorized representatives will have access to their confidential
436 information, as well as analyses, opinions, and conclusions, because Valuers must inform their clients
437 that their Reports are subject to review by the duly authorized representatives of the Appraisal
438 Institute. Further, clients retain Appraisal Institute Valuers in part because of the admissions and peer
439 review functions of the Appraisal Institute and such clients benefit from the resulting increased quality
440 of the services that Members, Candidates, Practicing Affiliates and Affiliates provide. At the same
441 time, Members, Candidates, Practicing Affiliates and Affiliates who serve on committees or other
442 bodies relating to admissions and peer review functions must not act in a manner that would harm a
443 client or take advantage of serving in these important roles to obtain professional advantage by
444 discussing or disclosing confidential information, analyses, opinions, conclusions, and factual data
445 derived from such activities. Since Members, Candidates, Practicing Affiliates and Affiliates must
446 keep strictly confidential the information, analyses, opinions, conclusions, and factual data derived
447 through admissions and peer review activities, the client is protected.

448 Explanatory Comments to Canon 5

449

450 Canon 5 Comment

451 To serve the public and clients effectively, members of a profession must properly and accurately inform
452 the public and prospective clients about their qualifications and the functions of the profession. In this
453 way, prospective clients can make informed decisions as to the type and extent of services they need and
454 can identify competent and ethical professionals to provide such services. Such information can also help
455 clients evaluate a service and help hiring parties evaluate potential employees or contractors. Advertising,
456 solicitations, promotions, resumes, and statements of qualifications that are misleading or are otherwise
457 contrary to the public interest undermine these important goals.

458

459 ER 5-1 Comment

460 Members, Candidates, Practicing Affiliates and Affiliates may utilize advertising to inform the public and
461 prospective clients of the services they offer, the cost of such services, and their qualifications. However,
462 advertising must not be misleading or calculated to create unrealistic expectations in the minds of the
463 parties to whom the advertising is directed. In promoting their services, Members, Candidates, Practicing
464 Affiliates and Affiliates must take particular care not to state or imply that they will develop, prepare, use
465 or report an appraisal or review, analysis, opinion or conclusion that is biased or that they will deviate
466 from the strict Standards and Ethical requirements with which they have agreed to comply.

467

468 Also, a Member, Candidate, Practicing Affiliate or Affiliate cannot avoid ethical responsibility by using a
469 corporation, partnership or other entity (or multiple entities) to advertise services in a misleading manner.

470

471 ER 5-2 Comment

472 The Appraisal Institute has established the categories of Designated Member, Candidate, Practicing
473 Affiliate and Affiliate in part to help the public and clients understand the qualifications these individuals
474 hold and the requirements to which they are subject. The different Appraisal Institute designations serve a
475 similar purpose.

476

477 The Appraisal Institute is the sole owner of its name, corporate logo, membership designations, and
478 emblems ("marks"), which are registered with the United States Patent and Trademark Office.

479 The authorized or permitted uses of these marks are set forth in the Bylaws, Code of Professional Ethics,
480 Regulation No. 5, and Trademark Usage Manual, and are subject to federal law.

481

482 The general rule governing any reference to or use of the Appraisal Institute name, corporate logo,
483 membership designations and designation emblems is that such reference or use must be authorized or
484 permitted and must not be misleading or deceptive.

485

486 ER 5-3 Comment

487 Misleading solicitations for services are contrary to the public interest and undermine the reputation of the
488 profession and its practitioners. Therefore, a Member, Candidate, Practicing Affiliate or Affiliate may not
489 solicit for services in a manner that is misleading.

490

491 For example, a Designated Member may not inform a prospective client that the Designated Member has
492 qualifications that the Member does not possess. As another example, a Candidate may not state or
493 imply in a solicitation for services that the Candidate can develop, prepare, use, or report an appraisal or
494 review analysis, opinion, or conclusion that is biased.

495

496 Ethical responsibility cannot be avoided by using a corporation, partnership, or other entity (or multiple
497 entities) to solicit services in a misleading manner. Therefore, one may not knowingly permit an entity that
498 is wholly or partially owned or controlled by such individual to solicit services in a manner that is
499 misleading, even if name of the individual is not specifically mentioned in the solicitation.

500

501 **ER 5-4 Comment**

502 The primary basis for someone to refer a service to a Valuer should be his or her qualifications, rather
503 than financial incentive. At the same time, federal law prohibits a professional organization from
504 prohibiting all referral fees. Therefore, one may pay a fee, commission, or thing of value to procure a
505 service, but such payment must be disclosed in any resulting Report. The Intended User(s) should know
506 that a fee, commission, or thing of value was paid to procure the service and to consider such information
507 in evaluating the service.

508

509 Disclosure is required only if the payment made is a condition of the referral. For example, if the party to
510 whom a referral is made subsequently invites the referring party to dinner as a token of appreciation, this
511 act would not be payment of a “thing of value” and disclosure would not be required.

512

513 ER 5-4 does not apply when performing work that is subject to the requirements of another licensed
514 occupation or profession. For example, if one is licensed as a real estate broker and is acting in a
515 capacity as a real estate broker, the payment and disclosure of a fee, commission, or thing of value for
516 procurement of the assignment are governed by the laws and regulations governing real estate brokers,
517 rather than ER 5-4.

518

519 **ER 5-5 Comment**

520 Potential clients, parties hiring employees and contractors, as well as others, need clear and accurate
521 information on which to evaluate qualifications and work product.

Effective 5/06/2021