

Code of Professional Ethics *and* Explanatory Comments

Effective January 1, 2015

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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 valuers are vital to the well-being of our
6 society and the global economy, and foster economic growth, stability, and public confidence.

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

12 The Code of Professional Ethics contains:

- 13 • Definitions;
- 14 • Canons, which are statements of fundamental ethical principles; and
- 15 • Ethical Rules, which are enforceable statements of required and prohibited conduct.

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

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

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

Definitions

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

37 **Appraisal**

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

41 **Assignment Results**

42 Opinions and conclusions developed in an appraisal or review.

43 **Biased**

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

46 **Client**

47 The individual, group or entity who engage a valuer to perform a Service.

48 **Confidential Information**

49 Information that is either:

- 50 • identified by the client as confidential when providing it to a valuer and that is not available
51 from any other source; or
- 52 • classified as confidential or private by applicable law or regulation.

53 **Credible**

54 Worthy of belief; supported by analysis of relevant information. Credibility is always measured in the
55 context of intended use.

56 **Duly Authorized Representative**

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

59 **Engagement**

60 An agreement between a valuer and a client to provide a Service.

61 **Hypothetical Condition**

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

63 **Intended Use**

64 The valuer's intent as to how the Report will be used.

65 **Intended User**

66 The party or parties the valuer intends will use the Report.

67 **Justified**

68 Reasonably supported.

69 **Know or Knowingly**

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

72 Comment: Knowledge can be inferred from the valuer's conduct and from all
73 the facts and circumstances surrounding the conduct. A determination of
74 "knowingly" should be made in the context of the valuer's training,
75 background, and experience. A valuer may have acted (or failed to act)
76 "knowingly" if he or she acted in disregard of the requirements of this Code of
77 Professional Ethics or applicable Standards of Professional Appraisal
78 Practice or the profession's recognized methods and techniques such as
79 those set forth in Appraisal Institute courses, seminars, textbooks, and other
80 publications. The term "knowingly" includes not only what the valuer knew,
81 but also what the valuer reasonably should have known given all the facts
82 and circumstances of the conduct and the valuer's training, background, and
83 experience.

84 **Moral Turpitude**

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

88 **Relevant Documentation or Information**

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

91 **Relevant Question**

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

94 **Report**

95 The final communication, written or oral, of an appraisal or review transmitted to the
96 client. Finality is evidenced by the presence of the valuer's signature in written
97 communication or a statement of finality in the oral communication of assignment
98 results. All communications to the client prior to the final communication must be
99 conspicuously designated as such.

- 100 **Review**
101 The act or process of developing and communicating an opinion to a client about the quality of
102 another's appraisal or review Report.
- 103 **Reviewer**
104 A valuer performing a review.
- 105 **Service**
106 Work that a valuer performs for a client that is subject to this Code of Professional Ethics, including
107 but not limited to appraisal and review.
- 108 **Special Assumption**
109 An assumption, directly applicable to a specific Service, which, if found to be false, could alter the
110 opinions or conclusions in an appraisal or review.
- 111 **Value**
112 The monetary relationship between properties and those who buy, sell, or use those properties.
113 Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth
114 of a property at a given time in accordance with a specific definition of value. In appraisal practice,
115 value must always be qualified - for example, market value, liquidation value, or investment value.
- 116 **Valuer**
117 One who is expected to provide Services in an unbiased and competent manner.

Exceptions to the Ethical Rules

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

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

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

126 **Ethical Rules**

127 ER 1-1

128 It is unethical to knowingly:

- 129 (a) act in a manner that is misleading;
- 130 (b) act in a manner that is fraudulent;
- 131 (c) use, or fail to take steps to prevent another from using, a misleading Report;
- 132 (d) transmit, or fail to take steps to prevent another from transmitting, a misleading Report; or
- 133 (e) transmit a Report containing an analysis, opinion, or conclusion that reasonable valuers
134 would not believe to be justified.

135 ER 1-2

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

138 ER 1-3

139 It is unethical to knowingly fail to properly identify the issue to be addressed and have the knowledge
140 and experience to complete the Service competently prior to agreeing to perform a Service, or
141 alternatively, to:

- 142 (a) disclose the lack of knowledge and/or experience to the client before agreeing to perform the
143 Service;
- 144 (b) take all steps necessary or appropriate to complete the Service competently; and
- 145 (c) describe the lack of knowledge and/or experience and the steps taken to complete the
146 Service competently in the Report.

147 ER 1-4

148 It is unethical in the performance of a Service to knowingly fail to:

- 149 (a) identify appropriate Standards to apply; and
- 150 (b) disclose in any Report the Standards applied.

151 Canon 2: One Must Assist the Appraisal Institute in Fulfilling Its
152 Role Relating to Qualifications and Compliance with Ethics and
153 Standards

154 Ethical Rules

155 ER 2-1

156 It is unethical:

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

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

161 ER 2-2

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

166 ER 2-3

167 It is unethical to knowingly:

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

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

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

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

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

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

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

183

ER 2-4

184 It is unethical to fail to maintain records, documented on any type of media, for each Report.

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

- 186
- a copy of the written Report(s); and
- 187
- any other data, information, and documentation necessary to support the valuer's
- 188 analyses, opinions and conclusions and to show compliance with the Code of
- 189 Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal
- 190 Institute, or references to the location(s) of such other documentation accessible to the
- 191 valuer.

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

- 193
- the name of the client and the identity, by name or type, of any other intended users;
- 194
- the valuer's signed and dated certification;
- 195
- a written summary of the oral Report, or, if the presentation is in the form of
- 196 testimony, a transcript of that testimony may be retained in the file in place of the
- 197 summary; and
- 198
- all other data, information, and documentation necessary to support the valuer's
- 199 analyses, opinions and conclusions and to show compliance with the Code of
- 200 Professional Ethics and Standards of Professional Appraisal Practice of the
- 201 Appraisal Institute, or references to the location(s) of such other documentation
- 202 accessible to the valuer.

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

204 ER 2-5

205 It is unethical to fail to retain required records for:

206 (a) a period of five years from the date of the completion of the Service;

207 (b) a period of two years following final disposition of a proceeding in which the valuer gave

208 testimony as part of the Service;

209 (c) a period commencing upon notification that a Service is the subject of a peer review

210 proceeding under Regulation No. 6 until notification by the Appraisal Institute of final

211 disposition of such peer review proceeding;

212 (d) a period commencing upon a request from Admissions relating to a Service until notification
213 by the Appraisal Institute of the completion of review by Admissions; or

214 (e) a period of two years following the final disposition of a review of a Service by a
215 governmental licensing or credentialing body;

216 whichever period shall be the last to expire.

217 ER 2-6

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

221 ER 2-7

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

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

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

228 **Canon 3: In Providing Services, a Valuer Must Develop and**
229 **Report Unbiased Analyses, Opinions, and Conclusions**

230 **Ethical Rules**

231 ER 3-1

232 It is unethical to knowingly contribute to or participate in the development, preparation, use or
233 reporting of an analysis, opinion, or conclusion that is biased.

234 ER 3-2

235 It is unethical to knowingly permit an entity that is wholly or partially owned or controlled by a valuer to
236 contribute to or participate in the development, preparation, use, or reporting of an analysis, opinion,
237 or conclusion that is biased.

238 ER 3-3

239 It is unethical to provide a Service that is contingent upon reporting a predetermined analysis, opinion
240 or conclusion.

241 ER 3-4

242 It is unethical to provide a Service that includes a Hypothetical Condition, unless:

- 243 (a) use of the Hypothetical Condition is required for legal purposes, for purposes of reasonable
244 analysis, or for purposes of comparison;
- 245 (b) use of the Hypothetical Condition results in a credible analysis; and
- 246 (c) the valuer complies with the applicable disclosure requirements set forth in the applicable
247 Standards for Hypothetical Conditions.

248 ER 3-5

249 It is unethical to provide a Service that includes a Special Assumption unless:

- 250 (a) the Special Assumption is required to properly develop credible opinions and conclusions;
- 251 (b) the valuer has a reasonable basis for the Special Assumption;
- 252 (c) use of the Special Assumption results in a credible analysis; and
- 253 (d) the valuer complies with the applicable disclosure requirements set forth in the applicable
254 Standards for Special Assumptions.

255 ER 3-6

256 It is unethical to provide a Service if a valuer has any direct or indirect, current, or prospective
257 personal interest in the subject or outcome of the Service or with respect to the parties involved in the
258 Service, unless:

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

262 (b) such personal interest is disclosed to the client prior to the valuer agreeing to provide the
263 Service; and

264 (c) such personal interest is disclosed in each Report resulting from such Service.

265 ER 3-7

266 It is unethical, during the period that commences at the time that a valuer is contacted concerning a
267 Service and expires at the completion of such Service, to knowingly acquire, or plan to acquire any
268 direct or indirect, current, or prospective personal interest in the subject or outcome of the Service or
269 with respect to the parties involved in the Service, unless:

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

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

275 (c) such personal interest is disclosed in each Report resulting from such Service.

276 **Canon 4: One Must Not Violate Confidentiality**

277 **Ethical Rules**

278 ER 4-1

279 It is unethical to disclose confidential information or an analysis, opinion, or conclusion specific to a
280 Service to anyone other than:

- 281 (a) the client and those persons specifically authorized by the client;
- 282 (b) third parties, when and to the extent that there is a legal obligation to do so by statute,
283 ordinance, or court or regulatory order;
- 284 (c) legal counsel, as reasonably necessary in the event of actual or threatened legal or
285 regulatory action;
- 286 (d) authorized insurance representatives, for the purpose of seeking or maintaining professional
287 liability insurance coverage; and
- 288 (e) the duly authorized Investigators and peer review or admissions committees of the Appraisal
289 Institute.

290 ER 4-2

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

- 294 (a) the individual whose Report or file contains the confidential information, analyses, opinions,
295 conclusions, or factual data;
- 296 (b) the client and those persons specifically authorized by that client to receive the confidential
297 information, analyses, opinions, conclusions, or factual data;
- 298 (c) third parties, when and to the extent that the Investigator or committee member is legally
299 required to do so by statute, ordinance, or court order; and
- 300 (d) Investigators and committee members and their duly authorized representatives within the
301 scope of the Bylaws and Regulations of the Appraisal Institute.

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

304 **Ethical Rules**

305 ER 5-1

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

308 ER 5-2

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

312 ER 5-3

313 It is unethical to solicit Services in a misleading manner. Further, it is unethical to knowingly permit an
314 entity one wholly or partially owns or controls to solicit Services in a misleading manner.

315 ER 5-4

316 It is unethical to fail to disclose in the Report the payment by the valuer, or by an entity wholly or
317 partially owned or controlled by the valuer, of a referral fee, in cash or kind, paid in connection with
318 the procurement of a Service.

319 ER 5-5

320 It is unethical to prepare or use in any manner a resume or statement of qualifications that is
321 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 Canon 1 Comment

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

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

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

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

24 If an Appraisal Institute Member, Candidate, Practicing Affiliate or Affiliate knowingly acts in a
25 misleading or fraudulent manner when providing a Service or when engaged in an activity unrelated
26 to a Service, such individual harms the reputation of the Appraisal Institute, its Members, Candidates,
27 Practicing Affiliates, Affiliates and the profession, thereby undermining the confidence and trust that
28 the public and clients must have in the integrity of the Appraisal Institute, Members, Candidates,
29 Practicing Affiliates, Affiliates and the profession.

30 If an individual acts in a misleading or fraudulent manner in activity unrelated to a Service, the public
31 and clients can legitimately question whether such a lack of personal integrity will impact any
32 Services such individual performs. Therefore, ER 1-1(a) and ER 1-1(b) apply to all Services, as well
33 as activities unrelated to Services. An example of a violation of ER 1-1(a) is if a valuer prepares a

34 Report that includes information that he or she knows or should know will lead the Intended User(s) of
35 the Report to an improper conclusion.

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

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

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

44 ER 1-1(c) prohibits a valuer from knowingly using a misleading Report. ER 1-1(c) further requires that
45 a valuer must take steps to prevent another from using a misleading Report, whether the Report was
46 prepared by the valuer or by another individual.

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

- 48 • a valuer allows a client to use a Report that contains a misleading analysis of comparable
49 sales.
- 50 • a valuer develops a misleading opinion concerning the appropriate depreciation for an
51 industrial building and provides the opinion to another valuer to use in a Report.

52 ER 1-1(d) prohibits a valuer from transmitting a misleading Report. ER 1-1(d) further requires that a
53 valuer must take steps to prevent another from transmitting a misleading Report whether the Report
54 was prepared by the valuer or by another individual.

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

- 56
- 57 • a valuer transmits a Report to a client that contains a misleading analysis of comparable
58 sales.
- 59 • a valuer allows an independent contractor to transmit a Report containing a misleading
60 highest and best use conclusion to a client.

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

62 A valuer must not transmit a Report that contains an analysis, opinion, or conclusion that is not
63 justified. To do so harms the public interest and undermines public and client confidence in the
64 valuer; valuers generally; the Appraisal Institute; and the profession.

65 The test under ER 1-1(e) is whether reasonable valuers would believe the analysis, opinion, or
66 conclusion to be justified. Valuers can and do differ as to the appropriate solutions to a valuation
67 issue. If, however, reasonable valuers conclude that an analysis, opinion or conclusion is not
68 reasonably supported, then such analysis, opinion or conclusion would not be justified under this
69 Ethical Rule. Evidence that a Report contains an analysis, opinion or conclusion that reasonable
70 valuers would not believe to be justified may include, but is not limited to, analyses, opinions and

71 conclusions developed through unsupported and unreasonable valuation or review practices. The
72 Appraisal Institute Guide Notes to the Standards of Professional Appraisal Practice and Appraisal
73 Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate* identify many
74 reasonable appraisal and review practices.

75 This Ethical Rule applies regardless of whether the valuer signed the Report.

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

- 77 • a valuer transmits a Report in which the value of a property is not reasonably supported.
- 78 • a valuer transmits a Report to a client that was signed by another individual that contains a
79 sales comparison approach that is not reasonably supported.

80 **ER 1-2 Comment**

81 The public and clients must have confidence in the personal honesty and integrity of Appraisal
82 Institute professionals, whom they entrust with matters of critical personal, corporate, and public
83 importance. If a Member, Candidate, Practicing Affiliate or Affiliate fails to comply with his or her legal
84 obligations to society in all activities, not just in the services the valuer performs, the public and clients
85 will lose confidence and trust in the honesty and integrity of the valuer; Members, Candidates,
86 Practicing Affiliates, and Affiliates generally; and those who practice the profession. The public and
87 clients will also lose confidence and trust in the Appraisal Institute. As a consequence, the ability of
88 Members, Candidates, Practicing Affiliates, Affiliates, the profession, and the Appraisal Institute to
89 perform their vital roles in our society and the global economy will be adversely affected.

90 Failure to comply with obligations to society, particularly relating to fraud, dishonesty, false
91 statements or moral turpitude, can legitimately lead the public and clients to question whether a
92 valuer will fail to comply with his or her obligations under the Code of Professional Ethics and
93 Standards of Professional Appraisal Practice of the Appraisal Institute. The crimes referred to in ER
94 1-2 are not limited to felonies.

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

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

100 Explanatory Comments to Canon 2

101 Canon 2 Comment

102 The Appraisal Institute serves a vital public need by:

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

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

119 ER 2-1 Comment

120 Confidentiality:

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

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

135 ER 2-2 Comment

136 While the Appraisal Institute recognizes that individuals who serve on committees dealing with
137 admissions matters and peer review proceedings are volunteers, such individuals must fulfill their

138 responsibilities diligently, objectively, and completely for the Appraisal Institute to effectively fulfill its
139 vital functions.

140 **ER 2-3 Comment**

141 The Articles of Incorporation, Bylaws, and Regulations of the Appraisal Institute provide the authority
142 for the Appraisal Institute and the establishment, powers, and duties of various committees. As a
143 corporate entity, the Appraisal Institute will fulfill its functions and exercise its authority through
144 various duly authorized representatives. Committees of the Appraisal Institute will sometimes fulfill
145 their powers and duties as committees of the whole, but such committees may also carry out some
146 powers and duties through individual members of the committees and duly authorized
147 representatives. For the Appraisal Institute to effectively carry out critical functions, including, but not
148 limited to, peer review, admissions, and continuing education, the obligations under ER 2-3 extend
149 not only to the Appraisal Institute but also to its duly authorized representatives.

150

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

154 Strict adherence to the Bylaws, Regulations, policies and procedures of the Appraisal Institute is
155 required when participating in the governance of the organization. Failure to do so can make
156 governance ineffective and harm the interests of the Appraisal Institute. For example, everyone
157 involved in governance must adhere strictly to any confidentiality obligations set forth in the Bylaws,
158 Regulations, policies and procedures of the Appraisal Institute. Additionally, they must adhere strictly
159 to the Appraisal Institute Antitrust Policy.

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

- 161
- 162 • ER 2-3(a): A valuer submits a continuing education log to the Appraisal Institute that
163 represents that the individual took a course that the individual did not in fact take or that
164 represents that the course provided a greater number of hours of continuing education than it
165 actually did.
 - 166 • ER 2-3(b): A valuer fails to promptly comply with a request for information or documentation
167 from an Appraisal Institute Investigator that the individual was required to preserve under ER
2-5.

168 **ER 2-4 Comment**

169 The Appraisal Institute has promulgated the Code of Professional Ethics and Standards of
170 Professional Appraisal Practice in part to establish requirements that will help ensure that valuers will
171 transmit credible analyses, opinions, and conclusions. Such requirements also give the public and
172 client's confidence that a valuer's analyses, opinions, and conclusions are based on sound data and
173 reasoning, and that such analyses, opinions, and conclusions are not predetermined or mere
174 speculation.

175 This Ethical Rule ensures that valuers will be able to provide support for their analyses, opinions, and
176 conclusions to clients, courts, the Appraisal Institute, regulatory agencies, and others. The required

177 records provide evidence of whether a valuer has complied with the Code of Professional Ethics and
178 Standards of Professional Appraisal Practice.

179 **ER 2-5 Comment**

180 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review, the
181 Appraisal Institute and its duly authorized representatives must have access to relevant records.
182 Valuers have a responsibility to consider and correctly apply the factors that can affect the retention
183 period for records before disposing of such records. For example, if a valuer prepares an appraisal on
184 April 30, 2012, the valuer must initially maintain records relating to that appraisal until at least April
185 30, 2017. If, however, the valuer then gives testimony on April 15, 2015, in a judicial proceeding
186 concerning the appraisal and the judicial proceedings are not completed until May 30, 2016, the
187 retention period changes and the records must be maintained until at least May 30, 2018.

188 **ER 2-6 Comment**

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

193 **ER 2-7 Comment**

194 A condition of membership, candidacy or affiliation is the agreement to comply with the Code of
195 Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
196 Responsibility for the failure to comply with such requirements cannot be avoided by a valuer
197 because an employer prevents him or her from complying. Because the Code of Professional Ethics
198 and Standards of Professional Appraisal Practice elevate the quality of Services provided in the
199 marketplace and enhance confidence of the public and clients in the profession, Ethical Rule 2-7 also
200 requires that a Member, Candidate, Practicing Affiliate or Affiliate demonstrably seek other
201 employment if he or she knows that his or her employer fails to comply with the requirements of the
202 Code of Professional Ethics or Standards of Professional Appraisal Practice.

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

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

210 Explanatory Comments to Canon 3

211 Canon 3 Comment

212 Given the role that valuers serve in our society and the global economy, the public interest demands
213 that a valuer develop and report unbiased analyses, opinions, and conclusions. Actual and perceived
214 bias can undermine the confidence that the public and clients must have in the integrity of valuers.
215 The public interest also demands that a valuer not use an unwarranted Hypothetical Condition or
216 Special Assumption. Therefore, Canon 3 and its associated Ethical Rules prohibit a valuer from using
217 an unwarranted Hypothetical Condition or Special Assumption and from rendering an analysis,
218 opinion, or conclusion that is not reasonably supported and that favors or promotes the cause or
219 interest of the client, the valuer, or another.

220 ER 3-1 Comment

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

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

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

243 Evidence that a valuer performed a Service under a contingent fee arrangement does not constitute
244 evidence of bias, in and of itself. Valuers are participants in the global economy. In the global
245 economy the norms for ethical practice concerning specific conduct may differ depending on
246 applicable national customs and standards. The matter of contingent fee arrangements is an example
247 of an area where the norms for ethical practice differ depending on the Standards used by the valuer.
248 For example, the Uniform Standards of Professional Appraisal Practice (USPAP) prohibits contingent
249 fee arrangements for valuation services. On the other hand, the International Valuation Standards

250 (IVS) permits contingent fee arrangements for valuation services as long as the valuer's fee does not
251 depend on a predetermined outcome of any valuation or other independent, objective advice
252 contained in the Report, and the valuer discloses whether the fee is contingent upon any aspect of
253 the Report.

254 **ER 3-2 Comment**

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

258 **ER 3-3 Comment**

259 ER 3-3 does not prohibit accepting Services in phases, with the ability to provide a subsequent
260 Service contingent upon the results of a prior Service, as long as the valuer does not render an
261 analysis, opinion, or conclusion that is biased in any of the phases.

262 To illustrate the point involved, assume the following facts: A government agency makes an offer to a
263 property owner to purchase the owner's property to expand a roadway. The agency has not begun
264 condemnation proceedings at this point, but may in the future. The attorney working with the property
265 owner contacts a valuer to obtain the valuer's opinion as to whether the market value of the property
266 is more than the amount of the agency's offer. The valuer prepares a Report (for the attorney's use
267 only) in which the valuer's value opinion is "not less than" the amount of the offer. Subsequently, the
268 attorney asks the valuer to prepare a Report (for which the Intended Users will be both the
269 government agency and the attorney for the property owner) for purposes of the condemnation
270 litigation. Note that these are two separate assignments, with different, though related, Intended Uses
271 and different Intended Users. If the valuer accepts these assignments, the valuer will not violate ER
272 3-3. The valuer was required to develop and report both the first and second Service in an unbiased
273 manner. Although the second Service was in essence contingent on the results of the first Service, it
274 was not contingent on a "predetermined" analysis, opinion, or conclusion.

275 **ER 3-4 Comment**

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

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

283 **ER 3-5 Comment**

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

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

293 **ER 3-6 Comment**

294 If a valuer has a personal interest in the subject or outcome of a Service or with respect to the parties
295 involved in the Service, such interest may provide an incentive for the valuer to render an analysis,
296 opinion, or conclusion that is biased, misleading, or otherwise unreliable. At a minimum, such a
297 personal interest may create an appearance that any resulting analysis, opinion, or conclusion may
298 be biased, misleading, or otherwise unreliable. An analysis, opinion, or conclusion that is biased,
299 misleading, or otherwise unreliable, or that may be perceived to be so, undermines the confidence and
300 trust that the public and clients must have in valuers.

301 In review assignments, "parties involved in the Service" include the individual who prepared the
302 Report being reviewed.

303 **ER 3-7 Comment**

304 If a valuer knowingly acquires an interest in property or assumes a position that could possibly affect
305 the valuer's judgment or violate the valuer's responsibilities to the client between the time the valuer
306 is contacted concerning a Service and when the valuer completes the Service, such interest or
307 change in position may provide an incentive for the valuer to render an analysis, opinion, or
308 conclusion that is biased, misleading, or otherwise unreliable and harms the client. At a minimum,
309 such interest or change in position may create an appearance that any resulting analysis, opinion, or
310 conclusion may be biased, misleading, or otherwise unreliable and that the valuer's interest or
311 position is in conflict with the valuer's responsibilities to the client.

312 Explanatory Comments to Canon 4

313 Canon 4 Comment

314 Confidentiality is a critical component of any relationship between a valuer and a client. Confidentiality
315 fosters full and candid disclosure of relevant information by the client. Such disclosure enables the
316 valuer to provide credible analyses, opinions, and conclusions to the client.

317 ER 4-1 Comment

318 ER 4-1 sets forth the general confidentiality requirements of the valuer-client relationship.

319 The client has a legitimate interest in controlling the disclosure of confidential Information, analyses,
320 opinions, and conclusions in part because the client pays for Services rendered and because the
321 disclosure of such information, analyses, opinions, and conclusions may harm the client. At the same
322 time, valuers must be able to comply with their legal, ethical and professional obligations, must be
323 able to seek and maintain professional liability insurance coverage, and must be allowed a
324 reasonable opportunity to defend themselves in a legal or regulatory action.

325 ER 4-2 Comment

326 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review,
327 appropriate Appraisal Institute committees and other Appraisal Institute duly authorized
328 representatives must and will have access to confidential information provided to valuers by their
329 clients. Clients understand and are on notice that appropriate Appraisal Institute committees and
330 other Appraisal Institute duly authorized representatives will have access to their confidential
331 Information, as well as confidential analyses, opinions, and conclusions, because valuers must inform
332 their clients that their Reports are subject to review by the duly authorized representatives of the
333 Appraisal Institute. Further, clients retain Appraisal Institute valuers in part because of the admissions
334 and peer review functions of the Appraisal Institute and such clients benefit from the resulting
335 increased quality of the Services that Members, Candidates, Practicing Affiliates and Affiliates
336 provide. At the same time, Members, Candidates, Practicing Affiliates and Affiliates who serve on
337 committees or other bodies relating to admissions and peer review functions must not act in a manner
338 that would harm a client or take advantage of serving in these important roles to obtain professional
339 advantage by discussing or disclosing confidential information, analyses, opinions, conclusions, and
340 factual data derived from such activities. Since Members, Candidates, Practicing Affiliates and
341 Affiliates must keep strictly confidential the information, analyses, opinions, conclusions, and factual
342 data derived through admissions and peer review activities, the client is protected.

343 Explanatory Comments to Canon 5

344 Canon 5 Comment

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

352 ER 5-1 Comment

353 Valuers may utilize advertising to inform the public and prospective clients of the Services they offer, the
354 cost of such Services, and their qualifications. However, advertising must not be misleading or calculated
355 to create unrealistic expectations in the minds of the parties to whom the advertising is directed. In
356 promoting their Services, valuers must take particular care not to state or imply that they will develop,
357 prepare, use or report an analysis, opinion or conclusion that is biased or that they will deviate from the
358 strict Standards and Ethical requirements with which they have agreed to comply.

359 Also, a valuer cannot avoid ethical responsibility by using a corporation, partnership or other entity (or
360 multiple entities) to advertise Services in a misleading manner.

361 ER 5-2 Comment

362 The Appraisal Institute has established the categories of Designated Member, Candidate for Designation,
363 Practicing Affiliate and Affiliate in part to help the public and clients understand the qualifications these
364 individuals hold and the requirements to which they are subject. The different Appraisal Institute
365 designations serve a similar purpose.

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

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

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

373 ER 5-3 Comment

374 Misleading solicitations for Services are contrary to the public interest and undermine the reputation of the
375 profession and its practitioners. Therefore, a valuer may not solicit for Services in a manner that is
376 misleading.

377 For example, a valuer may not inform a prospective client that the valuer has qualifications that the valuer
378 does not possess. As another example, a valuer may not state or imply in a solicitation for Services that
379 the valuer can develop, prepare, use, or report an analysis, opinion, or conclusion that is biased.

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

384 **ER 5-4 Comment**

385 The primary basis for someone to refer a Service to a valuer should be his or her qualifications, rather
386 than financial incentive. At the same time, federal law prohibits a professional organization from
387 prohibiting all referral fees. Therefore, one may pay a fee, commission, or thing of value to procure a
388 Service, but such payment must be disclosed in any resulting Report. The intended user(s) should know
389 that a fee, commission, or thing of value was paid to procure the Service and to consider such information
390 in evaluating the Service.

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

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

399 **ER 5-5 Comment**

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

Effective 01/01/15