



Case Summary: 2023-11

Sanction Consent Agreement Implementation Date: July 7, 2023

General Summary:

File Opened: February 12, 2021

This complaint was submitted by a lawyer representing several plaintiffs in a lawsuit against the client named in the appraisal report subject to the complaint. The statement of claim alleges that the client named in this appraisal report misappropriated funds invested in real estate developments to complete a private home.

The member provided an appraisal report on the private home that was submitted to the court by the client named in the appraisal report as part of an affidavit.

The Member requested and was granted abeyance. Once it was confirmed that no new or ongoing developments in the civil matter were underway, the file was removed from abeyance and the AIC Complaint Review resumed.

The Member conceded to concluding at the low end of a value range due to pending marketing conditions, and in anticipation of selling the property under forced conditions. When questioned by the AIC, the Member did not provide an adequate the definition of the circumstances of a forced sale value as it relates to market value.

Report Details:

Property Type: Executive residential

Purpose: to estimate market value

Use: to estimate the market value for accounting purposes only

Certification: signed by: CRA-designated Member

Complainant Allegations:

The complaint includes the following concerns:

The value conclusion favors the owner's need for forced sale resulting in a MISLEADING conclusion and specifically, it appears that the Appraisal may fail to comply with section 4.2 of the CUSPAP standards, which describes the following conduct as unethical:

Ethics Standard Rule 4.2.2 It is unethical for a Member to knowingly engage in conduct that would prejudice their professional status, the reputation of the Institute, CUSPAP, or any other Member;

Ethics Standard Rule 4.2.3 It is unethical for a Member to knowingly act in a manner that is misleading;

5.2 Misleading Report

5.2.1 It is unethical for a Member to develop, use or permit others to use, for any purpose, any Report which the Member knows, or ought to know, is defective, erroneous, and/or misleading.

Ethics Standard Rule 4.2.4 It is unethical for a Member to act in a manner that is fraudulent;

Ethics Standard Rule 4.2.5 It is unethical for a Member to knowingly complete an Assignment a reasonable Member could not support;

Ethics Standard Rule 4.2.12 It is unethical for a Member to accept an Assignment that is contingent on the result or outcome.

5.11 Contingent

5.11.1 It is unethical for a Member to accept a Professional Service Assignment, excluding a Consulting Assignment, if compensation for the Assignment is contingent upon:

5.11.1.i reporting a predetermined value;

5.11.1.ii a direction in value that favours the Client as a result of bias;

5.11.1.iii the amount of the value opinion (i.e. ad valorem);

5.11.1.iv the attainment of a stipulated result; or

5.11.1.v the occurrence of a subsequent event directly related to the value opinion.

Issues Arising from the Complaint Review:

The following issues arising were uncovered as a result of the AIC review of this complaint:

1. Identifying the Client by name and Intended User by Name
2. Intended Use
3. Land use Control
4. Reasoning for the exclusion of any of the relevant valuation procedures
5. Reasoning supporting the analyses, opinions and conclusions of each valuation approach
6. Outdated Form 0118 used
7. Failure to comply with AIC governing documents

Sanction Consent Agreement Terms

Agreed Breaches of CUSPAP 2018 (effective August 1, 2018 edition):

Definition 2.54 REPORT:

Any communication, written or oral, of a professional service that is transmitted to the client or intended user as a result of an assignment.

Note 1: These Standards do not dictate the format or style of reports. The substantive content of a report determines its compliance with CUSPAP. *When using a form or document created or copyrighted by the AIC, a Member must use the most recent version.*

Note 2: Report types may include form reports, short narrative reports, or comprehensive reports in complete or draft formats. Letters of opinion are not acceptable report types.

Ethics Standard Rule 4.2.1 It is unethical for a Member to knowingly fail to comply with Bylaws, Regulations, Standards and the Professional Liability Insurance Program of the Institute;

Ethics Standard Rule 4.2.2 It is unethical for a Member to knowingly engage in conduct that would prejudice his/her professional status, the reputation of the Institute, the appraisal profession, or any other Member.

Real Property Appraisal Standard Rule 6.2.1 In the report the Member must identify the client by name and intended user by name;

Real Property Appraisal Standard Comment 7.2 Client And Intended User

7.2.1 The client is the individual or organization for whom the Member renders or agrees to render professional services.

Real Property Appraisal Standard Rule 6.2.2 In the report the Member must identify the intended use of the Member's opinions and conclusions;

Real Property Appraisal Standard Comment 7.3 Intended Use

7.3.2 The intended use of the opinions and conclusions, as established with the client, must be stated in a report.

Real Property Appraisal Standard Rule 6.2.11 In the report the Member must identify and analyze land use controls;

Real Property Appraisal Standard Comment 7.12 Land Use Controls

7.12.1 Land Use Controls, including zoning, must be identified and their effect on use and value analyzed.

Real Property Appraisal Standard Rule 6.2.15 In the report the Member must describe and apply the appraisal procedures relevant to the assignment and provide reasoning for the exclusion of any of the relevant valuation procedures;

Real Property Appraisal Standard Rule 6.2.16 In the report the Member must detail the reasoning supporting the analyses, opinions and conclusions of each valuation approach;

Real Property Appraisal Standard Comment 7.17 Reasoning

7.17.1 Reasoning requires the logical review, analysis and interpretation of data in a manner that will support the value conclusion, not be misleading to a reader, and conform with the “Reasonable Appraiser” standard.

Agreed Discipline:

1. **Section 5.35.2:** Education: CPD 115, Appraisal Review to be completed successfully at the Member’s expense and must include the successful completion of the final exam not later than 6 months after the date of implementation of the Sanction Consent Agreement.

Costs (Section 5.38):

Costs in the amount of \$500 were levied.