BEFORE THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL FROM THE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

In the Matter of:

KIM WOLD,

Respondent.

OAH Case No. 04-0275 0276-REA
Board Nos. 3300-98-006,3300-02-004

DECISION AND ORDER

I. Introduction

This licensing matter is a disciplinary action brought by the Division of Occupational Licensing ("division"), Department of Community and Economic Development, State of Alaska, against certified real estate appraiser Kim Wold under AS 08.01.075 and provisions of AS 08.87. The Division accuses Mr. Wold of (1) acting negligently or incompetently or failing without good cause to exercise reasonable diligence in developing three appraisal reports, preparing appraisal reports or communicating appraisal reports,[1] and (2) with respect to three appraisal reports, failing to comply with the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation.[2]

The division seeks to suspend, revoke or impose other disciplinary sanctions against the license of Mr. Wold. After being served with the ten page, three count accusation prepared by the division, Mr. Wold requested a hearing.[3] An evidentiary hearing was held December 8 and 9, 2005, and February 27, 2006 in accordance with the Administrative Procedure Act.[4] The hearing was recorded; a transcript of the hearing has been prepared.

Witnesses testifying on behalf of the division were J. Vincent Coan (appraisal expert), Alfred J. Ferrara (appraisal expert), Margot Mandel (investigator), Donald Faulkenberry (investigator), and Corissa Hondolero (licensing and record supervisor). Witnesses testifying on behalf of Respondent were: Kim Wold (Respondent), Dr. John Kilpatrick (appraisal expert), and P.E. Bjorn-Roli (appraisal expert).

[1] AS S.S7.200(t).
[2] AS 8.87.200(3).
[3] AS 44.62.300(a) (1).
[4] AS 44.62.330 -.640.

At the hearing. Division exhibits 1 through 15, 15A, and 16 through 20 were admitted; Respondent exhibits A, B. D through I, K through X, Y2. Z, AB, AC, AD, AH, Al, AJ, AK, AKL. AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AZ, BA, and BB were admitted.

Mr. Wold is a certified as a real estate appraiser by the Board of Certified Real Estate Appraisers ("Board"), which may take disciplinary action against him and/or his license[5]. In seeking that result, the division has the burden of proving by a preponderance of the evidence[6] that disciplinary action is justified.[7] The division has met its burden with respect to some, but not all, accusations.

II. Procedural History

An accusation was filed against Respondent Kim Wold in July of 2004. As this case began before July 1, 2005, it does not fall under the jurisdiction of the Office of Administrative Hearings (OAH), created by AS 44.64.[8] The case is governed by the administrative hearing provisions of the Administrative Procedure Act (APA), AS 44.62.330—44.62.630.

As required by AS 44.62.350, a hearing officer was appointed to the case after Mr. Wold requested a hearing on the allegations contained in the accusation. Hearing Officer David Stebing presided over the hearing, but resigned from his position before issuing a proposed decision. As Mr. Stebing's former position had been transferred to the new OAH, an OAH administrative law judge, James T. Stanley, was assigned to replace Mr. Stebing.[9]

After review of the hearing testimony and exhibits, Mr. Stanley issued a proposed decision in the case on May 24, 2007. The proposed decision concluded that Mr. Wold's conduct violated the USPAP in many instances, and recommended sanctions including a formal reprimand, completion of a 15-hour USPAP course, and payment of a $2,500 fine, with $1,500 suspended if Mr. Wold completed the required USPAP course within 12 months.

The Board considered the proposed decision on June 14, 2007. After deliberations, the participating members of the Board[10] voted to reject the proposed decision under AS

[5] AS 8.01.075.

[6] Proof by a preponderance of" the evidence generally means that something is more likely true than not, e.g. there is a greater than 50 percent chance that it is true. *Dain Omen of Fairbanks. Inc. v. Trawler's Indemnity Co"of America.* 74S P.2d 1169, 1170-72(Alaska 19.88).

[7] AS 44.62.460(e) (I).

[8] Sec. 92(a). eh. 163. SLA 2004.

[9] Sec. 94(e), ch. 163. SLA 2004: AS 44.64.030(b).

[10] Board member Butch Olmstead was recused from consideration of the case due to a conflict of interest- AS 39.52.220. AS 44.62.450(c). AS 44.62.630.

44.62.500(c), and to remand the case to the same hearing officer to receive additional evidence on two issues:

1. disciplinary sanctions imposed by the Board in other cases, including cases settled by the parties under Memorandums of Agreement (MOAs); and

2. interpretation of the language of AS 08.01.075(a)(8) regarding the maximum fine that may be imposed by the Board.

Both the division and Mr. Wold were allowed an opportunity to respond to the Board's decision to consider additional evidence regarding the two issues identified by the Board. Both parties submitted additional briefing regarding those issues. ALJ Stanley issued a second proposed decision on October 3, 2007. The second proposed decision discussed the legal issues raised by the Board, and recommended the imposition of the same sanctions originally proposed.

At a meeting on November 29, 2007 the participating members of the Board voted to reject the second proposed decision and to decide the case themselves under AS 44.62.500(c). The Board decided that no additional evidence would be taken, but both parties were given an opportunity to present additional written argument to the Board as required by AS 44.62.500(c). Deliberations in the case were scheduled for January 11, 2008.

The entire case record, including transcripts of the testimony of the witnesses at the hearing, copies of all hearing exhibits, the accusation, and the pleadings submitted by both parties, was prepared and distributed to the Board members in advance of the meeting. Arrangements were also made to allow any Board member who wished to do so to personally examine the hearing exhibits and other case materials at the Office of Administrative Hearings in Anchorage.

On approximately December 13, 2007 copies of two motions filed by Mr. Wold were delivered to the division office by an OAH paralegal, who informed division staff that, as the Board had voted to reject the second proposed decision in the case, it was ALJ Stanley's view that the OAH had no further role in the case. On January 3, 2008 Board Chair Steve MacSwain wrote to ALJ Stanley requesting written confirmation of his view that the OAH had no further role in the case.

On January 4, 2008 Deputy Chief ALJ Christopher Kennedy replied to Mr. MacSwain's letter. ALJ Kennedy provided additional documents that had been received by the OAH (the division's opposition to Mr. Wold's motions, and Mr. Wold's replies). Mr. Kennedy indicated

that it would be inappropriate for ALJ Stanley to rule on the two motions filed by Mr. Wold. Mr. Kennedy indicated that the OAH was willing to perform any role the Board requested in the case, consistent with the office's statutory authority. He also noted that the Office of the Attorney General was available to provide legal advice to the Board regarding OAH's role in the case.

The Board met to deliberate on the case on January 11, 2008.[11] Immediately before its deliberations the Board decided to seek legal advice on procedural matters from the Office of the Attorney General.

The Board considered the two motions filed by Mr. Wold, a Motion to Establish Final Agency Action and a Motion to Limit Agency Action. The Board reviewed the motions, the opposition filed by the division, and Mr. Wold's replies. Both motions are premised on the contention that the second proposed decision issued by ALJ Stanley was the final decision in the case. The Board stated that it had voted to reject both proposed decisions, and so had not yet reached a final decision in the case. Therefore, the Board voted to deny both of Mr. Wold's motions.

The Board voted to adjourn into executive session to deliberate. After a day of deliberations, the Board unanimously reached a final decision in the case, set out in this written Decision and Order. The Board agreed with the ALJ's conclusions regarding the facts of the case and the violations proven by the evidence, but altered the license discipline sanctions to more appropriately reflect the seriousness of the offenses and the retraining the Board believes to be necessary.

III. Facts

This proceeding, which began with an accusation filed in July of 2004, has been intense and protracted. Three separate and distinct appraisal reports (23 pages, 74 pages, and 95 pages, respectively) prepared by Mr. Wold are the targets of the accusations levied by the division. The transcript of the hearing is just shy of 600 pages in length. The pleadings filed by the parties total approximately 1300 pages. Respondent's admitted exhibits total approximately 1050

[11] As noted earlier. Board member Butch Olmstead was recused from consideration of the case due to a conflict of interest; AS 39.52.220, AS 44.62.450(c). AS 44.62.630.

pages.[12] The division's admitted exhibits total approximately 400 pages. The division's written final argument and Mr. Wolds's written final argument are 60 and 73 pages, respectively.

After the accusation was filed, Mr. Wold filed suit in Alaska Superior Court on December 2, 2005 seeking declaratory and injunctive relief against the division and the board.[13] The court declined to interfere with the administrative process, noting that "If the Plaintiff receives an unsatisfactory result, the court may consider the issues on appeal."[14] The size of the record compiled in the court case is not known.

Mr. Wold was first certified in the state of Alaska as a general real estate appraiser on September 23, 1991. He began working in the field of appraising real property long before that, beginning in 1975 when he was employed in the office of the Ketchikan assessor. After three years of work for local Ketchikan government, Mr. Wold purchased an existing appraisal business and became a fee appraiser of residential properties. From and after 1985, Mr. Wold's appraisal work has been more commercial and industrial than residential. By 1990, Mr. Wold's appraisal work moved far beyond the Ketchikan area. In the mid 90's, Mr. Wold relocated to the Seattle area because travel to many Alaska properties was more easily accomplished from there than from Ketchikan. Through the date of the hearing, Mr. Wold continued to focus on commercial and industrial appraisal for institutional lenders, businesses; in some instances, his appraisal work was accomplished within the context of litigation and tax matters; he continues to perform residential appraisal[15] reviews for subordinates working for his company. Mr. Wold states that he has appraised more than 20 marinas, docks, and moorage facilities.[16]

The first of the three appraisal reports which are the subject of this case was prepared by Mr. Wold at the request of Leif Entwit and concerned residential real property and improvements located at 315 Copper Road in Ketchikan.[17] The appraisal was commissioned for "...divorce settlement negotiations and/or legal proceedings."[18] The "Copper Road" summary appraisal

[12] *Not* included within Respondent's approximately 1050 page count of admitted exhibit are the 759 pages of Respondent's exhibit AB. a treatise by the Appraisal Institute, *The Appraisal of Real Estate,* 12'" Edition.

[13] A7/H *Wold v. State of Alaska, Department of Community & Economic Development, Division of Corporations. Business, and Professional Licensing and Board of Certified Real Estate Appraisers,* Case No 1KE-05-592 CI (Alaska Superior Court).

[14] March 10. 2006 order of Michael A. Thompson. Judge of the Superior Court at Ketchikan.

[15] Tr. 305.

[16] Tr. 306

[17] Lot 86G. U.S.S. 3022. Ketchikan Recording District. First Judicial District, State of Alaska.

[18] Exhibit 3 at S24.

report was completed January 23, 1997; the effective date of the appraisal was January 3. 1997. The appraisal was supplemented on April 11, 1998.

The improvements located on the Copper Road parcel consist of a single family residence constructed in 1991 and later altered in 1995. While not described as in poor condition, the structure is unfinished in many areas: it lacks exterior siding; gutters are not completely installed; interior trim is not complete; ceiling height in the living room is substandard; the installation of one bathroom on the second floor is incomplete; second floor bedrooms lack doors; interior stairway lacks a railing; inadequate attic ventilation causes unwanted moisture accumulation. Mr. Wold described the home as "unfinished"[19] and located in "...arguably the most deplorable area of Ketchikan."[20] The quality of construction is described as "fair"; the functional utility of the residence is described as "poor."[21]

Marna G. Cessnun signed the Copper Road appraisal report and attached certification as the appraiser; Kim M. W'old signed as the supervisory appraiser.[22] A co-signing supervisory appraiser accepts responsibility for the contents of the report.' Mr. Wold estimated the property value to be $115,000.00 as of January 3, 1997. To reach the market value of $115,000.00, significant downward adjustments in value were made to the four comparable properties cited in the Copper Road appraisal. Dollar or percentage adjustments were applied to the known sale price of each comparable property to derive a range of value indications for the subject property.[24] Mr. Wold deemed all of the comparable properties to be "...superior in design/appeal due to the unfinished condition of the subject."[25]

Mr. Entwit engaged Garnet Dima, superintendent of Model Builders Inc., a Ketchikan contractor, to inspect the residential structure on the Copper Road property. On February 11, 1998, Mr. Dima inspected the Entwit residence and wrote in his report that "the house in question is showing signs of sagging in the floor which is equal to one inch to inch and one eighth in six feet depending on the location." To correct the problem, Mr. Dima estimated that ".. .this work (will) cost twenty-five thousand dollars." Mr. Wold obtained a copy of the Dima

[19] Tr. 337.
[20] Tr. 338.
[21] Exhibit 2 at 807.
[22] Exhibit 2 at 807. 810.
[23] Exhibit 2 at 812.
[24] *Understanding the Appraisal,* p. 1!. copyright 2007 by the Appraisal Institute, a global membership association of professional real estate appraisers organized in 1032.
[25] Exhibit 2 at 822.

letter and wrote on April 11. 1998 to Randall P. Ruaro, Mr. Entwit's divorce attorney, and advised that he was modifying the January 3, 1997 estimate of value to reflect a reduction equal to the estimated amount ($25,000) to cure the sagging floor, plus an additional SI2,500 to "compensate for risk associated with effecting the cure, such as cost overruns and the potential that additional problems may be found that would increase the cost to cure."" As of January 23, 1997, Mr. Wold updated his prior appraisal and adjusted the market value to $77,500.[2]

The second appraisal report in issue was commissioned by attorney Randall Ruaro and completed on April 8, 1998. The property appraised is a partial interest in Entwit's Float, a marina facility located in Ketchikan, Alaska. The stated purpose of the appraisal was to provide a supported estimate of the property's fair market value in its present condition; the intended use of the appraisal was for pending Entwit divorce settlement negotiations and. or legal proceedings.[28] The property interest being appraised was a one-third interest held by John L. Entwir" in the marina facility which consists of a small upland parcel and a tideland tract.[30] The tideland parcel is improved with a marina originally constructed in 1960's but in poor condition as of the date of the report.[31]

Mr. Wold considered the cost approach and the income capitalization approach to determine the market value of the marina property. His cost approach analysis produced a valuation of $ 152,000. The income capitalization approach yielded a value of $ 126,000; less weight was given to the income capitalization approach because its value closely approximates the value of the land. To estimate the value of the land, five comparable properties were considered; sales of the five comparables within 3 years of the Entwit float report ranged from $6.09 to $11.73 per square foot. After explaining the differences between the comparables, Mr. Wold selected a value for the upland parcel of $8.00 per square foot.[32] The tideland parcel is more than ten times the size of the upland parcel. Using a percentage of the value of the fee simple upland parcel,[33] Mr. Wold opined that the tideland parcel is worth $1.20 per square foot.[34]

[26] Exhibit 3.
[27] Exhibit 3 at 824.
[28] Exhibit 4 at 728.
[29] Exhibit 4 at "38.
[30] Exhibit 4 at "64.
[31] Exhibit 4 at 764. 783. Tr. 323-24
[32] Exhibit 4 at.782.

[33] Tidelands are valued at 10 to 35 percent of the adjacent upland fee simple value. The variables are. *inter alia,* size, location, utility, water depth, existence of hazards to navigation, exposure to adverse wind and wave conditions.

Components of the cost approach are S 140.390 for the pier, ramp, floats, piling and aircraft float replacement; SI 15,822 deduction for physical and functional depreciation; $24,568 depreciated value of the improvements; plus $ 127.000 land value. The total is S151,568, rounded to $152,000.[35]

Linda Entwit's divorce attorney, Linda Stanton, hired licensed appraiser Julie Dineen to review the Entwit float appraisal prepared by Mr. Wold. Ms. Dineen alleged in her May 10, 1998 review letter that the appraisal was unreliable and that Wold's finding that marina improvements reflected the highest and best use of the property was not supported by his calculations. Ms. Dineen also alleged that Mr. Wold did not make proper adjustments or adequately discuss differences in the land sale comparables; further, Wold allegedly undervalued the tideland parcel because he did not rely on other available sales or lease data. It was Ms. Dineen's opinion that Mr. Wold violated Uniform Standards of Professional Appraisal Practice ("USPAP") rules l-l(a)-(c) and l-3(b).[36] The Division of Occupational Licensing received a copy of Ms. Dineen's review appraisal, Mr. Wold's appraisal, and her brief cover letter on June 22, 1998.

The Entwit divorce went to trial in September, 1998. The court made a finding that the marina (float) property had a value of $240,293 (Mr. Wold had estimated $ 150,000) and that the Copper Road property had a value of $132, 280 (Mr. Wold first estimated $115, 000 and reduced it to $77,500 after learning that the floor was sagging).

The division hired appraiser Alfred J. Ferrara to review Mr. Wold's appraisal of the Entwit marina and the Copper Road property. Mr. Ferrara submitted his report on May 5, 2003; he alleged that Mr. Wold had violated USPAP Rules 1-l (b) and (c), l-3(a) and (b), and 2-1(a) and (b)[37]. Mr. Ferrara did not visit the properties in question. Mr. Ferrara had not prepared an appraisal of Ketchikan residential property in 25 years as of the time of the hearing in 2005.[38]

The third appraisal questioned by the division is Mr. Wold's July 17, 2002 appraisal of Ellis Island, a Ketchikan property consisting of a luxury single family residence, guest house, pump house, boat house, marine float, ramp, and piling. The stated purpose of the appraisal was:

[34] Exhibit 4 at "82.

[35] Exhibit 4 at 784.

[36] Rules l-l(a)-lc) and 1 -3(b) are quoted in full in the *discussion* section of this decision and order. The rules are named Standards Rule and are developed by the Appraisal Standards Board of The Appraisal Foundation.

[37] The cited rules are quoted in full in the *discussion* section of this decision and order

[38] Tr. 183.

(1) to determine the diminution in value of the property resulting from temporary interference with access by an adjoining land owner between February 1 and April 30, 2002; and (2) to determine the diminution in value of the property resulting from the historic and ongoing legal disputes related to access. The appraisal was commissioned by counsel to the property owner for use by the Ellis Island owner, Robert Spears, in pending litigation against his neighbors.[40] The 2002 litigation is derived from earlier litigation commenced in 1998 which produced a judgment on November 4, 1999; the judgment granted the owner of Ellis Island, and his. her. its successors in interest, a fixed, permanent, and non-exclusive easement for free and unimpeded ingress and egress between the property being appraised and the North Tongass Highway; the easement granted traversed the adjacent parcel of real property.[41] The alleged non-compliance with the 1999 judgment was the catalyst for the 2002 litigation.

The Ellis Island appraisal problem that Mr. Wold accepted was not routine. The ninety-five page appraisal analysis is self-described as being prepared in a self-contained format. The Spears property is comprised of two upland parcels and one tideland parcel, for a total property size of 140,786 square feet (3.23 acres). In 2002, the Ketchikan Gateway Borough assessed the value of the land and improvements at $1,183,100. The improvements and amenities are deluxe in every aspect. The large main house and guest house are roofed in copper. The boat house is 172 feet long, 55 feet wide, and 60 feet to the peak of the roof.

Mr. Wold considered five comparable properties to determine the value of the Spears parcel. Comparable sale data indicated a value range between $4.99 and $9.45 per square foot. After explaining and distinguishing the comparables, Mr. Wold settled on $7.00 per square foot for the upland parcel and $2.00 per square foot for the tideland; total land value is estimated to be $800,000 at the date of the appraisal report. The improvements were valued on a replacement cost basis, adjusted to the Ketchikan area. Using the cost approach to value the residence, garage, guest house, boat house, pump building, and site improvements yields a value by the cost approach of $2,087,517. then rounded to $2,100,000.

Mr. Wold concluded that the Spears property suffered a temporary loss of value due to construction activities benefiting the neighboring parcel, but interfering with Spears' access,

[39] Exhibit 12 at 954.
[40] *Robe Wayne Spears Family Trust whose trustee is Robert Wayne Spears v. Alice Brutsich, Stanley Ouksmith 111. and Bonnie L. Oaksmith. So.* 1KE-02-63-CI (Alaska Superior Court).
[41] Brusich, Oaksmith, and the property known as Air Marine Harbor.

during the period commencing February 1, 2002 and ending April 15, 2002. The temporary loss of use was analogized to a temporary construction easement. Beginning with a land lease rate of 8 percent of the land value, and using a 10 percent lease rate for the improvements, the annual rental rate was calculated to be 9.12%. Dividing the annual rate of 9.12% by 12 months yields a monthly rate of .76%. Because the use of Spears' easement was for 2.5 months, .76% is multiplied by 2.5 to indicate 1.9 percent, which is then multiplied by the estimated value of $2,100,000 to obtain the market value diminution due to temporary interference of $39,900, rounded to $40,000.[42]

Determining whether or not the Spears property suffered intermediate or long term diminution in value as a result of its history of legal proceedings related to access required an analysis and recounting of past events. Mr. Wold's diminution of value analysis is premised on Alaska's mandatory' disclosure law which applies to the sale of residential real property.[43] Mr. Wold queried five real estate licensees and one attorney for their opinion of whether or not a history of litigation requires disclosure to a prospective buyer, all who were queried answered affirmatively.[44] Two title insurance agencies stated that any pending litigation would be an exclusion from coverage.[45] Based upon his inquiries and his own insight, Mr. Wold believed that pending litigation would stop a theoretical sale of the Spears property, and a history of access-based litigation would affect both price and marketability.

Quantification of value lost as a result of easement disputes was addressed by considering other properties that had experienced legal difficulties and incurred loss of value.[46] Additionally, four experienced real estate licensees were consulted; they believed that if access litigation was present or anticipated, it would require a 25?/o to 50% discount to attract a buyer. Applying the 25% discount to the property value of $2,100,000 results in a calculated $525,000 diminution of market value from the "legal blight and stigma" fostered by the access issues and history.[47]

Attorneys representing the defendants in the litigation commenced by Mr. Spears over access hired appraiser Vince Coan to review Mr. Wold's appraisal analysis of the Spears

[42] Exhibit 12 at 1023-24.
[43] AS 34.70.010 cf sec/.
[44] Exhibit 12 at 1026. 1033-34.
[45] Exhibit 12 at 1028.
[46] Ketchikan Pulp Mill. Alaska Mental Health Trust Authrority property which was bisected by a road. Sea Level Condominiums (Ketchikan). Harbormaster Condominiums, Harrington property facing a future and uncertain taking.
[47] The term "legal blight and stigma" refers to a negati\e market perception.

property. On August 14, 2002, Mr. Coan submitted his appraisal review and concluded, in his opinion, that Mr. Wold's appraisal was incomplete and should be called a "limited scope appraisal in a self-contained format". Mr. Coan alleged that Mr. Wold had violated L'SPAP Rules 1-l and 2-2(a)(xi).[48] Further, Mr. Coan's opinion differed from Mr. Wold's treatment of the time that access was affected on Mr. Spears' property. Mr. Coan thought that assuming that there would be future litigation, as indicated by Mr. Wold, was an "extraordinary assumption" requiring disclosure; he also thought the comparables used by Mr. Wold were not the victims of litigation, and he questioned whether or not litigation in and of itself created legal blight and stigma.

The Division assembled its investigative file and sent it to Mr. Ferrara for expert review on April 14, 2003. Mr. Ferrara prepared on April 28, 2003 his written report alleging that: the appraisal report for Mr. Spears was not a complete appraisal in a self-contained format; the appraisal was misleading because the cost approach was not adequately completed and supported; the explanation supporting the $40,000 in damages for easement encroachment was lacking; and Mr. Wold's discussion of he court actions and their results was inadequate. Mr. Ferrara believed that Mr. Wold had violated USPAP Rules 1-l (b) and (C), l-2(f) and (g), 2-1(a)-(c), 2-2(a) (vii) and (viii) and (xi).[49]

IV. Discussion

A. Disciplinary Proceedings Against Appraisers Licensed in Alaska

This disciplinary case is an exercise of the regulatory authority of the Alaska Board of Certified Real Estate Appraisers through application of licensing standards adopted by the Alaska Legislature at AS 08.87. Alaska began licensing real estate appraisers in 1990. Before that time, real estate appraisers and appraisals were unregulated. Among its various duties, the Alaska Board of Certified Real Estate Appraisers is charged with adopting rules of professional conduct "which establish and maintain a high standard of integrity in the real estate appraisal profession."[50]

AS 08.87.020(3) recognizes that Congress provided the impetus for licensing the appraisal profession. Passage of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA" or the "Act") was a response to abuses in the lending

[48] The rules will be quoted in full in the *discussion* section of this decision and order.
[49] The text of the rules will be set out in the *discussion* section of this order and decision.

industry that led to the collapse of a large number of banking institutions in the 1980's, particularly savings and loan institutions, in Alaska and elsewhere.[51] One of the practices F1RREA addressed was the lender's use of appraisals that included inflated collateral values to support risky loans. Among its many prov isions, the Act required regulated financial institutions (most of the banking and the savings and loan industry) to use state-licensed appraisers for certain federally regulated transactions. Today, all 50 states regulate licensing of real estate appraisers in accordance with the F1RREA directive.

F1RREA also required federal regulatory agencies to adopt the appraisal profession's Uniform Standards of Professional Appraisal Practice ("USPAP"). In 2000, the preamble to USPAP expressed an intent that the standards are to promote and maintain a high level of public trust in the profession' (emphasis added). This goal is similar to the Board's charge in AS 08.87.020(2) to "...establish and maintain a high standard of integrity in the real estate appraisal profession."[52] Like most other states, Alaska adopted the USPAP.[53]

The accusation in the instant case seeks disciplinary sanctions in the alternative, including the most serious sanction - revocation of Mr. Wold's license. When considering the options for discipline, the Board is mindful that depriving a person of the opportunity to practice a profession should not be lightly undertaken. Denying or sanctioning a professional license may prevent the professional license holder, such as an appraiser, from the means to earn a living.[54]

AS 08.01.075 allows for license revocation, license suspension for a set period of time, censure, reprimand, imposition of limitations or conditions on the professional practice of a licensee, requiring peer review, imposing remedial education, imposing probation with reporting

[50] AS 8.87.020(2).

[51] 12 U.S.C. $§ 3331 - 3351 (2000); *City and County: of Denver v. Board of Assessment Appeals.* 947 P.2d 1373. 1378 (Colo. 1997).

52 USPAP has included a broad ethics provision since 1989 proscribing unethical conduct by real estate appraisers. The USPAP provision applies to appraisal conduct only. *See* The Appraisal Institute. *The Appraisal of Real Estate.* pp. 705-08 (11th ed. 1996). In contrast, through the licensing criterion authorizing discipline for crimes involving moral turpitude, the Alaska Legislature addressed ethical conduct of appraiser applicants and licensees for conduct occurring both within and outside of the profession. *See* AS 08.87.110(a)(4); AS 08.87.210(2). In *IVendte v. State.* 70 P.3d 1089 (Alaska 2003). the Alaska Board of Certified Real Estate Appraiser's decision to suspend the appraiser's license after he was convicted of theft from several non-profit organizations was upheld because there is a presumed logical nexus between a crime of moral turpitude and the ability to satisfy the profession's ethical standards.

[53] AS 8.87.200(3).

[54] *See Kalman v. Walsh,* 189 N.E. 315.317 (111. 1934); *Johnson v. Board of Governors of Registered Dentists,* 913 P.2d 1339. 1345 (Okla. 1996).

requirements, and imposing a civil fine not to exceed $5000.The primary purpose of discipline in the licensing context is not punishment. The law is clear that disciplinary sanctions against a professional license holder are designed to protect the public interest, rather than punish the licensee.[55] Deterring the licensee being disciplined and other licensees from similar conduct is a legitimate goal, regardless of the sanction option(s) chosen under AS 08.01.075.

The Board acknowledges its obligation under AS 08.01.075(f) to seek consistency in the application of disciplinary sanctions against licensees, and to explain a significant departure from prior decisions involving similar facts. The Board carefully reviewed and considered the prior real estate appraiser disciplinary cases summarized at pages 11-14 of the second proposed decision issued by ALJ Stanley on October 3, 2007.

The Board agrees with the ALJ's conclusion that cases settled under a MOA are not "prior decisions" within the meaning of AS 08.01.075(f).[56] Licensees who resolve their license discipline cases through a negotiated settlement may reasonably expect a more favorable disposition than those who do not. Licensees who sign a MOA generally have admitted their conduct; at the very least they are willing to accept Board-approved disciplinary sanctions based on their alleged conduct. Such licensees likely present more favorable prospects for prompt improvement of substandard skills and appropriate future professional conduct than other licensees. Licensees who resolve their cases without a hearing save the division time and scarce resources, and are entitled to emphasize to the Board their cooperation with the division investigators. Thus, the fine amounts to which licensees agree are on the low end of the scale of possible sanctions.

The facts of the sole prior reported real estate appraiser license discipline case, ***Wendte*** v. ***State, Board of Real Estate Appraisers,*** 70 P.3d 1089 (Alaska 2003), are not similar to those of this case. The Board rejected a proposed MOA in that case, and sought revocation of Wendte's appraiser license following his criminal convictions for felony theft, but Hearing Officer David Stebing recommended a two-year license suspension. Under AS 44.62.500(b) the Board may reduce a proposed penalty, but it did not have the power to impose a higher penalty upon Wendte (unless the Board rejected the proposed decision and decided to hear the case itself under AS 44.62.500(c), as the Board did in this case). Ultimately, the Board decided to accept the hearing

[55] *Allison v. State.* 583 P.2d 813, 817 (Alaska 1978); *Suite v. ZoM,* 900 P.2d "44, 754 (Alaska App. 1995).

[56] See page 12. footnote 60. of the revised proposed decision. October 3, 2007. and *Hawthorne* v. *State Board of Xursing,* 3AN-04-10154 CI. Alaska Superior Court (December 5. 2006).

that left the maximum fine subject to arbitrary manipulation by the officer's proposed penalty.[57] In this case the Board may determine the appropriate penalty to be imposed, within the limits set by AS 08.01.075, as the Board is deciding the case itself under the authority of AS 44.62.500(c).

AS 08.01.075(a)(8) provides that a board "may take the following disciplinary actions, singly or in combination....impose a civil fine not to exceed 55,000". The Board considered how that language should be applied in this case, where a single accusation contains numerous counts alleging USPAP violations during three separate appraisals. At pages 14-16 of the second proposed decision issued by ALJ Stanley on October 3, 2007 the ALJ concluded that the maximum fine that could be imposed against Mr. Wold was $5,000 "in the aggregate", that is, for all of the allegations in the accusation, irrespective of the number of USPAP violations found to have been committed by the licensee. The Board carefully considered the legal analysis and authorities cited in that portion of the second proposed decision.

Interpretation of this aspect of AS 08.01.075(a)(8) was not addressed during the legislature's consideration of the provision. After discussion, the Board concluded that interpreting AS 08.01.075(a)(8) to allow a $5,000 maximum fine per accusation filed would subject a licensee to vastly different maximum sanctions depending upon whether all allegations against the licensee are included in one accusation, or are contained in two, three, or more separate charging documents. The Board concluded that the legislature likely would not have intended a interpretation division.

It is possible to interpret AS 08.01.075(a)(8) as establishing the maximum fine per count alleged in the accusation. While this construction may be reasonable, under the facts of this case it would have the effect of subjecting Mr. Wold to significant potential fine amounts. The Board concluded that, even if $5,000 was the maximum fine for each count, by way of analogy to criminal cases where the defendant has been convicted of multiple charges, the conduct in multiple counts would "merge" for purposes of determining the appropriate sanction.[58] The Board concluded that the most sensible and fair way to interpret AS 08.01.075(a)(8), and therefore the interpretation most likely to comport with legislative intent, was as authorizing a maximum fine of $5,000 per offense, occurrence, or transaction, regardless of whether the

[57] *Wendte*. 70 P.2d at 1090.

[58] See *IVhitten* v. *State*. 479 P2d 302. 312 (Alaska *1970). Jacinth v. State*. 593 P.2d 263. 266 (Alaska 1979). *Ye, v. State*. 805 P.2d 987. 993-996 (Alaska App. 1991), *Eriekson* r. *State*. 950 P.2d 580, 585 (Alaska App. 1997), *Harmon v. State*. 11 P.3d 393. 394-396 (Alaska App. 2000).

allegations are contained in one or more charging documents, unless separate statutory offenses vindicate or protect different social interests. Under the facts of this case, considering the social interests intended to be protected by AS 08.87 and the USPAP, Mr. Wold is subject to a potential maximum fine of SI 5.000 total, $5,000 for each of the three appraisals at issue in this case.

B. Uniform Standards of Professional Appraisal Practice

The USPAP standards applied in this proceeding are as follows:

> **Standards Rule 1-1 (1995)** In developing a real property appraisal, an appraiser must: (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal; (b) not commit a substantial error or omission or commission that significantly affects an appraisal; (c) not render appraisal services in a careless or negligent manner, such as a series of errors that, considered individually, may not significantly affect the results of an appraisal, but which, when considered in the aggregate, would be misleading.
>
> **Standards Rule 1-1 (2002)** In developing a real property appraisal, an appraiser must: .. . (c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.
>
> **Standards Rule 1-2 (2002)** In developing a real property appraisal, an appraiser must: . .. (f) identify the scope of work necessary to complete the assignment; (g) identify any extraordinary assumptions necessary in the assignment;
>
> **Standards Rule 1-3 (1995)** In developing a real property appraisal, an appraiser must observe the following specific appraisal guidelines: (a) consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such land use regulations, economic demand, the physical adaptability of the real estate, neighborhood trends, and the highest and best use of the real estate; (b) recognize that land is appraised as though vacant and available for development to its highest and best use and that the appraisal of improvements is based on their actual contribution to the site.
>
> **Standards Rule 2-1 (1995)** Each written or oral real property appraisal must: (a) clearly and accurately set forth the appraisal in a manner that will not be misleading; (b) contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly;

> **Standards Rule 2-2 (2002)** Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report, (a) The content of a Self Contained Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum: . . . (vii) describe sufficient information to disclose to the client and any intended users of the appraisal the scope of the work used to develop the appraisal;. .. (xi) state and explain any permitted departures from specific requirements of STANDARD 1 and the reason for excluding any of the usual valuation approaches;

C. Applying USPAP to the Wold Appraisals

Mr. Wold's administrative appeal strenuously challenges the division's claim that he violated USPA standards 18 or more times. The accusation is broken into three counts. Count I addresses the marina appraisal and the Copper Road residence appraisal. Count II alleges that the Copper Road appraisal is misleading and overstates problems with the structure. Count III focuses on the Ellis Island property appraisal commissioned by the property owner's attorney.

Each side in this appeal retained two experts and each of them testified extensively during the course of the hearing. For the Division, Mr. Ferrara was the principal expert witness. The principal expert witness for Mr. Wold was Dr. John Kilpatrick. There can be no dispute that each of the appraisal experts has deep knowledge of the appraisal profession; each of the principal experts has testified as an expert numerous times in a variety of court and administrative proceedings. There is no dispute that the real-life appraisal experience of each of the experts is different. The common factor affecting each of the four experts is that each is bound by the broadly worded mandates of USPAP. As the experts generally pointed out, USPAP does not provide the answer to an appraisal problem;[50] USPAP tells the appraiser what steps he or she must follow when producing an appraisal, but USPAP does not dictate the quantitative result. The broadly worded standards of USPAP require that, ***inter alia,*** the appraiser be careful, explain everything, keep in mind who is reading the work product.

One of the several emphases of USPAP is that an appraisal report be credible. It is not the case that two good appraisers, each appraising the same property, cannot reach different conclusions of value, while both appraisals have the requisite credibility. The appraiser has

numerous opportunities to make "judgment calls" as to which comparable to use, how large or small the adjustment to make to a comparable. Notwithstanding the latitude of choices given to the appraisers, USPAP requires that certain steps must be taken in the course of preparing an appraisal. The steps are articulated in the USPAP standards ("standard" or "SR.").

Mr. Wold has violated a number of the USPAP standards. This conclusion is based upon consideration of the experts' testimony, an objective review of the appraisals themselves, and a review of the entire record in this case. By no means is each of the three appraisals completely deficient; however, appraisers are professionals and the law requires that they adhere to high standards of competence in a specialized field. The law in Alaska mandates that Mr. Wold meet the standards of USPAP in every appraisal report that he produces.[60]

There is room for a legitimate difference of opinion between the appraisers testifying as experts and Mr. Wold. For example, when one of the standards[61] requires that appraisal services not be rendered in a ***cureless*** or ***negligent*** manner, rest assured that there is room for different opinions as to what is ***careless,*** what is ***negligent.*** Another standard[62] requires that the appraisal ***not be misleading;*** reviewers of the appraisal product in question will have different opinions of what is ***misleading*** and what is not ***misleading.*** In other words, there is some subjectivity which unavoidably comes into play when expert appraisers view the same evidence, receive payment for their opinions, and generally try to paint an accurate but helpful picture of what their client has done. Stated differently, a retained expert will not be testifying if their opinion does not in general support the position taken by the client. Accordingly, it is no surprise that the division's experts view Mr. Wold's appraisal products as deficient and incomplete in numerous instances. It is not surprising that Mr. Wold's experts generally see his appraisal products as generally meeting USPAP standards, noting that USPAP standards allow appraisers to select different methodologies and reach different conclusions.

D. The Marina Appraisal

Wold's appraisal observed that: the float decking was deteriorated; the general construction of the floats was sub-standard; the floats and pilings needed significant attention;

[59] The first step in the valuation process is to develop a concise statement of the problem. This sets the parameters of the assignment and eliminates ambiguity about the nature of the assignment. *The Appraisal of Real Estate* (12th ed.). pp. 52-54.

[60] AS 8.87.200(3).

[61] Standards Rule 1-1(c).

[62] Standards Rule 2-1 (a).

the improvements were an "under improvement of the property";[63] full occupancy of the marina was unlikely; the then current income potential could not support the estimated value of the land. He valued the property under the income approach at $126,000; he valued the land alone at $ 127,000. Having reached these conclusions, Mr. Wold took the position that the highest and best use of the land was as a marina, even though the land valuation was higher than the value calculated using the income approach. Once the value of land exceeds the value of the improved property, the highest and best use ordinarily becomes the land in a vacant state.[64] Using the cost approach on older properties is difficult because of the high depreciation and the difficulty in calculating the replacement cost of old improvements.[65]

Mr. Wold deducted $91,253 for the poor condition of the marina in his cost approach, and then proceeded to deduct an additional $24,569 for "functional obsolescence"; this is a double deduction for the same characteristic. As for the valuation of the tideland parcel, Mr. Wold used a formula but included no independent sales or leasing data.

The evidence applicable to the marina appraisal supports the following findings:

1. Mr. Wold violated SR 1 -1 (a) when he did not use recognized methods and techniques to produce a credible appraisal of the marina (which affected the valuation of Entwit's one-third interest). The explanation of why Mr. Wold used the cost approach is inadequate. Because cost and market value are usually more closely related when properties are new, the cost approach is valuable when estimating the value of new or relatively new construction.[66] The Entwit marina is definitely not new or relatively new construction. To apply the cost approach to older properties, it is mandatory that adequate data be available to measure depreciation, and that the data be fully explained.

2. Mr. Wold's double deduction for depreciation and functional obsolescence violates SR 1-1 (b) because it is a substantial error which affects the appraisal.

3. Mr. Wold did not violate SR 1 -1 (c) and produce a misleading report for careless or negligent reasons, given that the report was commissioned by an attorney for use in litigation and would be scrutinized by adverse parties and the court in the divorce proceeding. Because the

[63] Exhibit 4 at 7.83.

[64] *Appraisal of Real Estate, supra* at 306. 309.

[65] *Appraisal of Real Estate, supra* at 354.

[66] *Appraisal of Real Estate, supra* at 354.

court's conclusions in the Entwit divorce trial were different than Mr. Wold, and because the expert appraisers, and the adverse reviewing appraiser differ, does not necessarily distill to a finding of misleading.

4. Mr. Wold did not violate SRI-3(a) when he concluded that the highest and best use of the land was as a marina, even though other appraisers could or would have a different explanation, or a more articulate explanation. The inference to be gleaned from Mr. Wold's highest and best use discussion is that a strict application of appraisal rules would suggest that a dilapidated marina that made little, if any, money is not the highest and best use of the land; however, continuation of the marina on an interim basis was the highest and best use at the time of the appraisal. While Mr. Wold's conclusion that the existing marina use was its highest and best use is debatable, his conclusion does not rise to a violation of SRI-3(a).

5. Mr. Wold did not violate SRI-3(b). He did consider existing land use, regulations, local economic demand, physical adaptability, the neighborhood and the best use of the real estate. Again, the weight that Mr. Wold may give to various factors can be different from other appraisers and experts, but that does not mean a violation of the applicable SR has occurred. A wholesale failure to consider required elements could be a violation of an SR.

6. Mr. Wold did not violate SR 2-1(a). The report reasonably set forth the appraisal in a manner that would not be misleading to its readers. The report was prepared for litigation. While the adverse appraiser in the divorce action would have provided more explanation in certain areas (e.g., tideland lease comparable vs. percentage of upland value), a reasonable reading of the report does not support a finding that it was misleading.

7. Mr. Wold did not violate SR 2-1(b). The report was well understood by the client and the intended users and readers (Ms. Dineen, the litigation attorneys, Mr. Coan, Mr. Ferrara, Mr. Bjorn-Roli, Mr. Kilpatrick).

E. <u>The Copper Road Appraisal</u>

Mr. Wold's summary appraisal report concluded that on January 23, 1997 the Copper Road residence was valued at SI 15,000. He subsequently lowered the appraised value to 577,500 after receiving a contactors estimate that $25,000 would be required to fix a sagging floor; he added in another $12,500 for unforeseen contingency costs. The division's expert, Mr. Ferrara, takes issue with: the selection of comparable data used by Mr. Wold, and his

[67] Judge Jahnke, Entwit divorce proceeding, September 17, 1998.

adjustments to these properties to render them comparable; Mr. Wold's perceived inability to bracket[68] the property; and Mr. Wold's characterization of deficiencies as *physical or functional.*

A review of the evidence related to the Copper Road property supports the following findings'.

1. Mr. Wold did not violate SR 1-1 (a). He recognized and used the sales comparison approach and used valuation techniques common to the residential appraisal process.

2. Mr. Wold violated SR 1-1(b) when he used comparable sales that required unreasonably high adjustments. For example, the four other residential properties were adjusted downward in value by 27%, 46%, 34% and 23%. All of the four properties were more valuable than the subject property. Inability to bracket a property is a substantial defect in an appraiser's reliance on the sales comparison approach.[69] It may be true that better comparable properties were unavailable; if true, this fact would need to be explained and justified in the report.

3. Mr. Wold violated SRI-1(c) when he blithely relied on a contractor's very short letter to further reduce the estimated value of the residence from $115,000 to $77,500. Given that the $ 115,000 valuation was derived using larger than normal adjustments to comparable properties, a further reduction of 23% in estimated value requires more than a belief that the contractor's reputation in the community was good.

4. Mr. Wold did not violate SR2-1(a) or (b). The summary appraisal for the residential property is not misleading, especially when the intended users of the appraisal are the attorneys and their divorcing clients. Mr. Wold discloses the less than desirable number of comparable sales and the apparent inability to bracket. The level of detail in his general text addendum to the summary appraisal is adequate to allow the intended user to understand his valuation. Again, the fact that appraisers and experts differ over matters of opinion does not support a violation of SR 2-1(a) or (b) in this case.

F. The Ellis Island Appraisal

Mr. Wold completed an appraisal of Ellis Island property on July 17, 2002. The appraisal was commissioned by Joel Kantor, an attorney, on behalf of his client, Robert Wayne Spears, owner of Ellis Island. The stated purpose of the appraisal was for use in litigation. The appraisal problem confronted by Mr. Wold has two parts. First, the appraisal was to determine the

[68] The term bracketing means using comparable properties with values both above and below the subject property: this would allow for less adjustment to make the properties comparable to the subject property.

diminution in value of the property resulting from illegal interference with Spear's access for a short period of time. Second, Mr. Wold was retained to appraise and determine the diminution in value of the Spears property as a result of the history of the litigation over access.

Mr. Wold concluded that the temporary interference with access constituted damages in the amount of $40,000. and that "legal blight and stigma" due to legal disputes over access has diminished the value of the property by $525,000. The parties adverse to Spears retained appraiser Vince Coan to review the appraisal by Mr. Wold. Mr. Coan filed a complaint with the division and it hired Alfred Ferrara. Mr. Ferrara reported that, in his opinion, Mr. Wold violated SR 1-1 (b) and (c), 1-2(g), 2-1(a), (b), and (c), 2-2(a)(viii) and (xi).

The evidence related to the Ellis Island appraisal supports the following findings:

1. Mr. Wold did violate SR 1-1(a). Use of the cost approach, only, to value residential property under the facts of this case is not reasonable. There is no dispute among the experts and in the literature that correct use of the sales comparison approach will produce the most accurate results. Use of the sales comparison approach requires locating comparable property sales. Mr. Wold apparently limited his search to high-end island properties in the Ketchikan area. This is unreasonable given that higher priced, non island properties in the Ketchikan area and in nearby Southeast Alaska communities could be used. Failure to exhaust the search for comparable properties does not meet the USPAP requirement that the appraiser must produce a credible appraisal by correctly using the best recognized method; if the best recognized method (sale comparison approach) is not used, strong justification must be given. Absent a much greater demonstration of due diligence, use of the cost approach method is inadequate to produce a credible appraisal.

2. Mr. Wold violated SR 1-1(b) when he failed to exercise due diligence and gather sufficient relevant and material information that would affect the appraisal. A reasonable exercise of due diligence would include the sale of all high-end residential properties in Southeast Alaska. The gathering of sufficient factual information in a diligent manner is required by SR 1-1(b).[70]

3. Mr. Wold violated SR 1-1(c) because he failed to reasonably exhaust his search for the sale of comparable properties which in turn pushed him into the use of the cost approach

[69] *Snowbank Enterprises Inc. v. United States.* 6 CI. Ct 476. 485 (CI. Ct. 1984)
[70] Commentary to SR 1-1(b).

in a residential setting. Falling below the standard in this regard translates to negligence in the conduct of this residential appraisal. The Board does not find intentional misconduct. SR 1-1(c) prohibition against careless or negligent services by an appraiser is a strict requirement. "Departure from this binding requirement is not permitted."[71]

4. Mr. Wold did not violate SR2-1(a). The 92 page appraisal is readable and explanatory. The Board finds no attempt to mislead the intended users.

5. Mr. Wold did not v iolate SR 2-1 (b) because the appraisal report contains sufficient information to enable the intended users, attorneys and parties in litigation, to understand the report. Users and reviewers of the report may disagree with Mr. Wold's conclusions; a difference of opinion does not support a violation of SR2-1(b).

6. Mr. Wold did not violate SR 2-1(c) (2002 version) because the appraisal, taken as a whole, does describe the various assumptions and the methodology that Mr. Wold is using. How he prepared the appraisal and the information that he did use is clear. To meet the extraordinary assumption disclosure requirement does not mean that specific section of the report must be labeled "EXTRAORDINARY ASSUMPTIONS"; rather, the reader only needs to be able to glean what assumptions the appraiser is making as the report is read by the intended user.

7. Mr. Wold did not violate SR 2-2(a) (viii)(2002 version) which requires that all assumptions, hypothetical conditions, and limiting conditions which affect the analysis, opinion and conclusions be stated. While these items may be grouped together, the SR does not require the grouping. A fair reading of the Ellis Island appraisal adequately tells the intended user what the appraiser did, what he relied on, and what assumptions he made in his analysis.

8. Mr. Wold violated SR 2-2(a)(xi) because he failed to explain adequately his departures from the requirements of SR 1, e.g., if the appraiser rejects the sales comparison approach in a residential appraisal, the departure must be adequately explained.

V. Conclusion

1. The Division has met it burden of establishing a basis for discipline as a result of Mr. Wold's violations of AS 8.87.200(1) and AS 8.87.200(3).

a. In the course of appraising the Entwit Float (marina), Mr. Wold violated SR 1-1(a) and SR 1-I(b).

[71] Commentary to SR I-I(c).

b. In the course of appraising the Copper Road residence, Mr. Wold violated SR 1-1(b) and SR 1-1(c).

c. In the course of appraising the Ellis Island property, Mr. Wold violated SR I-1(a), SR 1-1(b), SR 1-1 (c), and SR 2-2(a)(xi).

2. The Division has not met its burden of establishing a basis for discipline as a result of alleged violations of SR 1-3(a), SR 1-3(b), SR 2-1(a), SR 2-1(b), and SR 2-2(a)(viii).

VI. Disciplinary Sanctions

Mr. Wold's three appraisals fell below the applicable standards in several instances. The Board finds that these violations are serious, and the disciplinary sanctions to be imposed must reflect the seriousness of the violations. The sanctions must also deter Mr. Wold and other licensed real estate appraisers from engaging in similar conduct in the future. Although serious, Mr. Wold's offenses do not justify the imposition of maximum possible sanctions. For the reasons stated, and based upon the entire record in this case, the Board unanimously decides to impose the following sanctions:

1. Licensee Kim Wold is formally reprimanded for failing to adhere to USPAP Rules 1-1(a), 1-1(b), 1-1(c), and 2-2(a)(xi) as set forth above.

2. Licensee Kim Wold is ordered to pay a civil fine in the amount of $ 1,500 each for the Copper Road appraisal, the Marina appraisal, and the Ellis Island appraisal, for a total fine of $4,500. This amount must be paid within six months after this order becomes final.

3. The violations show a lack of application of basic concepts of appraisal practice, therefore the following training is required. The licensee must successfully complete the five courses listed below, offered through the Appraisal Institute, Chicago, 111. All classes must be taken through classroom attendance, and evidence of successful completion of and passage of the examination for each course must be provided to the Board within 18 months after this order becomes final. The required Appraisal Institute courses are:

A. Business Practices and Ethics (8 hours);

B. General Market Analysis and Highest and Best Use (30 hours);

C. Advanced Sales Comparison and Cost Approaches (40 hours);

D. Litigation Appraising: Specialized Topics and Applications (16 hours); and

F. National Uniform Standards of Professional Appraisal Practice (USPAP) (15 hours).

These course requirements are imposed concurrently for each of the three appraisals.

4. If the licensee fails to meet the requirements set out above, his certification as a real estate appraiser in Alaska will be suspended until proof of compliance with this order is received by the Board.

Dated this 20th day of February, 2008.

Steve MacSwain, Chairman
Board of Certified Real Estate Appraisers