

# Know Your Role:

## Appraising, Ethics, and the Law

Presented by:  
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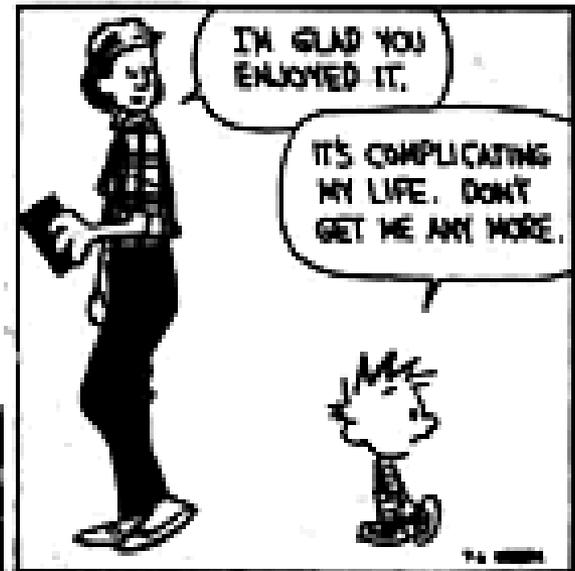
# Got Ethics?

Calvin and Hobbes

by Bill Watterson



IT REALLY MADE ME SEE THINGS DIFFERENTLY. IT'S GIVEN ME A LOT TO THINK ABOUT.



# What is Ethical?

- **Definition of ETHIC<sup>1</sup>**
- **1 ethics** *plural in form but singular or plural in construction* : the discipline dealing with what is good and bad and with moral duty and obligation
- **2a** : a set of moral principles : a theory or system of moral values the present-day materialistic *ethic* an old-fashioned work *ethic* —often used in plural but singular or plural in construction an elaborate *ethics* Christian *ethics*
- **b ethics** *plural in form but singular or plural in construction* : the principles of conduct governing an individual or a group professional *ethics*
- **c** : a guiding philosophy
- **d** : a consciousness of moral importance forge a conservation *ethic*
- **3 ethics** *plural* : a set of moral issues or aspects (as rightness) debated the *ethics* of human cloning
- <sup>1</sup> “Ethic,” Meriam-Webster, n.d., from [www.meriam-webster.com/dictionary/ethic](http://www.meriam-webster.com/dictionary/ethic)

# Ethical Duties

- USPAP
  - Ethics Rule
    - Conduct
    - Management
    - Confidentiality
- Licensing Statute & Rules
  - "Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public." 225 ILCS 458/15-10(a)(10)
  - Unprofessional Conduct defined - 68 Ill. Admin. Code 1455.310
    - "Including but not limited to"
    - 11 specified actions
- Professional Standards
  - AI, NAIFA, ASA, IRWA, etc.

# Conduct

- An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.
- Can an appraiser perform an appraisal on his/her own property?
  - Yes.
- Perform valuations other than an appraisal?
  - Yes
  - But don't misrepresent your role...

# Management

- Can an appraiser work for a contingent fee?
  - No.
- Percentage of amount saved/recovered?
  - No.
- Promise of future assignments?
  - No.
- Can an appraiser work for no fee?
  - Yes.
- Don't forge...

# Confidentiality

- An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone other than:
  - the client;
  - parties specifically authorized by the client
  - state appraiser regulatory agencies
  - third parties as may be authorized by due process of law; or
  - a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

# Case Study #1

- (Appraiser) participated in causing lenders to loan money in excess of the value of the property securing the loans by making false representations to the lender...properties were sold to straw buyers and proceeds divided between (Appraiser) and his codefendant.
  - Erwin Espe, Wilmette – certified residential real estate appraiser license (556-003459) indefinitely suspended for a minimum of 10 years and fined \$8,000 due to a criminal conviction of Wire Fraud and for forging another's signature on an appraisal report.

# Case Study #2

- Appraiser prepared multiple appraisal reports wherein he affixed the name of another appraiser when the lender/client would not accept reports from Appraiser.
  - (Appraiser) prepared multiple appraisal reports wherein he affixed the name, digital signature and license number of another licensee before transmitting said reports.
  - Kevin Brisker, South Holland – certified residential real estate appraiser license (556- 002577) indefinitely suspended and fined \$10,000 for using the name and credential of another appraiser for his own benefit and purposefully misrepresenting the author of several appraisal reports that he prepared in order to evade the requirements of a lender.
    - Fine later reduced to \$2,000 on appeal.

# Case Study #3

- Appraiser agreed to perform tax appeal services for a percentage of the amount of reduction. Appraiser further guaranteed a minimum percentage of reduction or he would take no fee.
  - Complaint filed with IDFPR leading to ethics charge.
  - Appraiser induced the complaining party not to testify at Formal Hearing.
  - Offered cash so as not to leave a paper trail...
  - Had complaining party sign contract agreeing to cash payment in exchange for no testimony.
  - Joseph Vega, Chicago – certified residential real estate appraiser license (556-001972) indefinitely suspended for a minimum of 18 months and fined \$750 after submitted a misleading appraisal report replete with errors and discrepancies, having improperly conditioned payment for his services on the outcome of the assignment and having made an unethical agreement in which he returned a fee to a client in exchange for the client agreeing not to testify against him.

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## Bio-Contact Information

Craig Capilla is a trial lawyer, concentrating his practice in a wide range of civil litigation, including professional liability and commercial claims. He has successfully defended residential and commercial appraisers and appraisal firms accused of negligence or improper activity in their valuation services. Craig has also represented numerous licensed professionals in Illinois state licensing matters including real estate brokers, real estate appraisers, and medical doctors, process servers, mortgage loan originators and brokers. He has represented clients in both state and federal lawsuits and has appeared in various judicial circuits across Illinois and in Wisconsin. He has also assisted professionals with licensing proceedings in Wisconsin, Iowa, and Missouri.

Craig earned a B.A. from the University of Michigan in 2004, majoring in History and Political Science. He then earned a Juris Doctor from the DePaul University College of Law in 2007. Craig is authorized to practice law in Illinois, Wisconsin, and is a member of the trial bar of the United States District Court for the Northern District of Illinois.

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