

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
STATE OF MONTANA

IN THE MATTER OF CASE NOS. 2010-REA-LIC-21 AND 2010-REA-LIC-25
REGARDING:

| | | |
|--|---|-----------------------------------|
| THE PROPOSED DISCIPLINARY |) | Case Nos. 1623-2012 and 1624-2012 |
| TREATMENT OF THE LICENSE OF |) | |
| GREGORY STRABLE, Certified Residential |) | |
| Appraiser, License No. 750. |) | |
| |) | |

**PROPOSED FINDINGS OF FACT; CONCLUSIONS OF LAW;
AND RECOMMENDED ORDER**

I. INTRODUCTION AND PRELIMINARY MATTERS

On March 1, 2012, the Montana Board of Real Estate Appraisers (Board) issued a Notice of Proposed Board Action and Opportunity for Hearing regarding two separate homeowner complaints alleging that Gregory Strable, certified residential appraiser license number 750, had not personally inspected their properties as part of his appraisal. On March 12, 2012, Strable requested a hearing on the proposed board action and the Board transferred the two cases to the Hearings Bureau for contested case hearing. On March 19, 2012, the Hearings Bureau issued a Notice of Hearing setting the date for a scheduling conference. On March 27, 2012, Strable filed a motion to reset the scheduling conference. That motion was granted and the conference took place on April 5, 2012. At the conference, the parties agreed to have the hearing on both cases on August 8, 2012. Ordinarily the hearing officer sets hearings in licensing cases 90 days from the scheduling conference, but counsel for Strable desired additional time. At the conference, the parties also agreed to complete discovery by June 29, 2012.

On June 21, 2012, Strable filed a Motion For New Scheduling Order. The Department objected to the motion. On June 28, 2012, the hearing officer denied the motion. On July 5, 2012, the Department filed a Motion to Compel responses to its discovery. On July 6, 2012, Strable filed a Motion to Exclude the Department's expert witness or to extend the deadlines for the hearing. On July 12, 2012, the hearing officer issued an order denying the Motion to Exclude the Department's expert witness and to extend the hearing deadline. On August 3, 2012, the hearing

officer granted the Department's Motion to Compel discovery. On August 7, 2012, the hearing officer granted Strable's Motion for a Protective Order regarding some of the information the Department sought in its motion to compel.

The hearing proceeded on August 8, 2012. Joseph Seipel, Billie Veerkamp, Gregory Strable, and Teri Smith presented sworn testimony. Exhibits 1, 2, 5, 6a-d, 7, 8, 13-17, 19, 20, 22, 24, 25, 27 (Exhibit 1 from Case No. 2018-2010), 28 (sealed), A, C, D, E, F, G (Veerkamp's deposition transcript), H, N, and P (the updated version of Exhibit O) were admitted into the record. Pages 47 A and 47 B were substituted for page 47 of Exhibit 1.

The parties were given until October 5, 2012 to file their post-hearing briefs and until October 19 to file their responses. On September 27, 2012, Strable asked for and was granted an additional week to file his post-hearing documents.

II. DISCOVERY SANCTIONS

The Department's Motion to Compel Discovery dated July 5, 2012 argued that certain objections were unsustainable and certain responses were evasive or incomplete. To timely manage interlocutory issues, hearing officer Scrimm appointed Gregory Hanchett as "interim hearing officer" in Scrimm's absence from July 13-30, 2012. In his response to the Department's motion to compel, Strable defended his answers, indicated his intention to reconsider his answers with counsel, and "reiterate[ed] his need for more time to properly represent his client." Strable demanded oral argument on the motion to compel. Since the Scheduling Order provided that all motions were to be heard at the final pretrial conference, Hanchett declined to act on the motion other than to volunteer his services as a nonbinding mediator. Though the parties did accept Hanchett's offer to mediate, that mediation did not successfully resolve the impasse. Therefore, the motion was taken up at the final pretrial conference.

The final pretrial conference was originally scheduled for Thursday, August 2, 2012, but due to a conflict in the hearing officer's schedule, the parties were offered alternative substitute settings: Wednesday, August 1, or Friday, August 3. Counsel for Strable selected 3:30 p.m. on Friday, August 3. After considering argument by counsel, the hearing officer ruled that Strable's responses to discovery were deficient in his admissions and in production of documents related to appraisals since 2008 and documents that indicated the business relationship between Fox and Strable. The hearing officer ordered supplemental discovery to be produced and delivered to Department's counsel by 5:00 p.m., Monday, August 6.

Strable supplied four appraisal reports from 2006 in which Brandon Fox was identified as a “candidate appraiser.” On August 7, 2012, Strable also supplied three copies of Internal Revenue Service form 1099 for Fox for tax years 2008, 2009, and 2010. The Department filed a Motion for Sanctions at the outset of the hearing and the hearing officer took the motion under advisement.

The hearing officer finds Strable’s response to the request for the appraisals involving Brandon Fox in violation of the order compelling discovery and constitutes another violation of Strable’s legal obligations to cooperate with investigations (Mont. Code Ann. § 37-54-416(3); Admin. R. Mont. 24.207.403). Sanctions are appropriate. The Department sought the following sanctions:

Strable will not be permitted to:

1. Present evidence that he, rather than Brandon Fox, was the individual that personally inspected the interior and exterior of the Cook and Mann homes and selected appropriate comparable properties.
2. Present evidence that his appraisal reports on the Cook and Mann homes were compliant with USPAP standards.

At hearing, Strable admitted that he did not inspect the Mann or Cook properties. So the first sanction the Department sought is unnecessary although it led to a considerable waste of resources for Strable to admit at hearing what he should have far earlier in these proceedings. With regard to the second sanction, it too is unnecessary as Strable presented so little evidence to rebut the alleged USPAP violations that issuing such a sanction would be an idle act. Strable has still failed to produce his appraisals from 2008, 2009, and 2010 in which Fox played a role in the appraisal. The hearing officer orders that Strable immediately produce those documents and recommends that the Board consider such production when making its final decision in these matters.

III. FINDINGS OF FACT

1. Strable was licensed as a certified residential appraiser by the State of Montana in September 2004. He holds license number 750.
2. The parties stipulated that the 2010-2011 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) applied to these two cases.

3. Joseph Seipel was qualified as an expert in real estate appraisal practice and testified as to competency standards established by USPAP. If an appraiser is not competent, he or she must disclose that fact and declare what the appraiser has done to become competent. Seipel, when asked if an appraiser had not been actively appraising in an area for 3-5 years, would it “render you incompetent under Standard 3?” Seipel responded, “I don’t have a conclusive remark to that.” Tr. 27.

4. Seipel is Gregory Strable’s father-in-law. Strable is the principal breadwinner for Seipel’s daughter and four grandchildren. Seipel offered Strable training sometime in or before 2004 and at that time believed that Strable was making progress to become a competent, skilled appraiser. During this same time, Strable was denied licensure due to deficiencies in his proffered work product.

5. Seipel knows his son-in-law “fairly well” and that he has a reputation for honesty “as far as the people I’ve talked to and known in the community.” Tr. 36. Seipel did not testify as to how many people he knows and has talked to about Strable’s reputation for honesty. Seipel admitted that for the last eight years he has had no information about the quality of his son-in-law’s appraisal work or his son-in-law’s skills, habits, or truthfulness. Tr. 43. Seipel never reviewed Strable’s appraisal work. Seipel knew nothing about the facts or circumstances regarding Strable’s disciplinary actions in the State of Wyoming. Tr. 46.

6. Seipel did not and could not comment about the quality of Strable’s or Veerkamp’s appraisals because he had not performed a Standard 3 review of them.

7. Seipel was asked whether there were any substantial changes from the 2008-2009 version of USPAP including its advisory opinions and the frequently-asked questions. Seipel responded that “there is usually a page or two, a couple of items, but I don’t believe the basic competency things have changed.” The foreword to the 2010-2011 version of USPAP states “STANDARD 3 has been rewritten significantly.” USPAP 2010-2011 Ed., Appraisal Standards Bd., The Appraisal Found., U-vi. Even more importantly, USPAP added a new FAQ (#266) regarding Standard 3 reviews and geographic competency to the 2010 version. *Id.* Comment 266.

FAQ 266 responds to the question of whether an appraiser can perform a desk review on an appraisal report for a property located in a different state. *Id.* The appraiser was not familiar with the market in the other state and had never been there. *Id.* The Appraisal Standards Board’s response was “Yes, If you are engaged to determine whether or not the appraisal report under review complies with certain guidelines or standards, geographic competence is not typically relevant.” *Id.* These

changes and additions to USPAP, particularly in their relation to Standard 3, make Seipel's testimony less credible.

With respect to Seipel's knowledge of his son-in-law's expertise or his reputation for honesty, that knowledge was significantly distant in time or so non-committal that it lacked relevance. Seipel's testimony could have an impact on his daughter's and grandchildren's well-being. The hearing officer did not hear any testimony either particularly biased in favor of his son-in-law or particularly helpful.

8. Billie Veerkamp was qualified as an expert in the requirements of the USPAP. She holds a bachelor of arts degree in business administration and was licensed by the Board as an appraiser with a general certification. Veerkamp lives in the Helena area and has appraised property in that area. She was hired by the Department of Labor and Industry in 1998. Veerkamp has conducted approximately 1500 work product reviews.

9. As part of her routine appraisal review preparation for the Cook and Mann cases, on September 29, 2010, Veerkamp began seeking Strable's appraisal file, workfile, and witnesses' contact information from Strable and his counsel. Veerkamp and counsel for the Department wrote a series of letters seeking records, but Strable did not supply those records until June 20, 2011. Even then, the response was incomplete because Strable did not supply contact information for Brandon Fox, the individual alleged by the complainants to be the person who actually inspected their homes. Then followed another letter, dated July 22, 2011, requesting that missing information. Finally, on August 23, 2011, counsel for Strable supplied a telephone number for Brandon Fox. Veerkamp attempted to contact Fox through the telephone number and post office box supplied by Strable, but was unable to reach Fox. Strable was in contact with Fox by telephone and other means at least 15 times a week.

10. On September 2, 2011, Veerkamp spoke to one of the complainants, Karen Mann, who had Fox's number in her cell phone contacts and supplied that number to Veerkamp. That phone number was different than the one supplied by Strable. Veerkamp called that number at 10:15 a.m. and reached a voice message specifically identifying the number as Brandon Fox's. Just 39 minutes later, at 10:54 a.m. on September 2, 2012, Strable forwarded that same phone number to his attorney to supply to the Department. Just 31 minutes later, at 11:26 a.m., counsel for Strable supplied the new number to the Department. Tr. 69. Nevertheless, repeated attempts to telephone Fox at that number were unsuccessful. Until the eve of trial, the Department continued to call this number, leaving multiple messages on a recording announcing, "Mountain Front Appraisal Services," yet Brandon Fox never responded. Veerkamp completed her appraisal reviews on the Cook and Mann cases

without ever having an opportunity to interview the man alleged to have performed inspections on both houses. See also Exh. 2 at 2-4.

11. In a case tried in May 2011 before this same hearing officer, Complaint No. 2009-017, Case No. 1021-2011, the Department faced the same frustrations with Strable who refused to supply the contact information for a woman who, like Brandon Fox, conducted a home inspection, but was not disclosed in Strable's appraisal report. Tr. 70.

12. Veerkamp is competent to conduct appraisal reviews; these reviews did not involve a reappraisal assigning a value to either of the properties. There is no geographic component to appraisal concepts such as the scope of work rule or an appraiser's duty of candor and honesty. Tr. 73-74.

13. In performing an appraisal review, Veerkamp is not reappraising the property and assigning a value to it. Consequently, USPAP terms requiring geographic competency for appraisals are largely irrelevant to her Standard 3 appraisal review.

14. Appraisal reports need not be perfect to be USPAP compliant. Tr. 74:7-11. USPAP establishes minimum elements in each of the Standards Rules. Tr. 74:12-18. A USPAP violation may exist even where it is not deemed "substantial." A USPAP violation can rise to the level of a substantial violation when it affects the credibility of the overall appraisal. Tr. 74:19-24.

15. Veerkamp had no role in filing the Cook or Mann complaints or in calling for a Standard 3 investigation. Tr. 63-64.

16. Appraisers are held to the "minimum" standards under USPAP both for development and reporting on their appraisal work. Tr. 74. USPAP and Montana law do not require a finding of a "substantial deviation" from USPAP to establish a violation, provided the deviation affects the credibility of the appraisal report. Tr. 75:19-24. Veerkamp notes in her Appraisal Review every USPAP violation she observes, but limits her Report of Investigation to only substantial USPAP violations that could affect the credibility of the report. Tr. 75:9-19; 76:1-13.

17. USPAP applies to all appraisal work conducted by Montana appraiser licensees. Tr. 100:16-23. Veerkamp's appraisal review is based primarily on USPAP, not the complaint. Her appraisal review is a review of the appraisal report and workfile documents provided by Strable, according to USPAP. Veerkamp's appraisal reviews of Strable's appraisals were completed according to USPAP Standard 3.

Veerkamp concluded that Strable's appraisal reports contained numerous sanctionable USPAP violations.

18. Proof of harm to the property owner is not an element of a USPAP violation. Tr. 105:23-25 (citing I Policy Statement 10-E¹). Dismissal of a case based on alleged lack of harm is inconsistent with the aims of federal regulation. *Id.*, Tr. 106:1-3.

19. It may be permissible for an unlicensed individual to contribute to an appraisal report so long as that contribution is consistent with the assignment conditions imposed by the client and that work is disclosed. However, in the Cook and Mann appraisals, the preprinted appraisal report form included assignment conditions that prohibited an unlicensed and undisclosed individual such as Brandon Fox from conducting subject inspections and comparable inspections. Tr. 102-03.

Case No. 1623-2012 - Mann Appraisal

20. This case results from a complaint filed by Karen and Peter Mann regarding an appraisal Strable conducted to estimate the market value of the real property located at 2616 Valley Drive in East Helena, Montana. The intended use of the appraisal was to assess the property identified in this report to obtain mortgage refinancing through "Wells Fargo, N.A." This was a federally related transaction. The effective date of Strable's appraisal and the date of the report was March 24, 2010. The Manns' complaint was not instigated by the Board or the Department of Labor and Industry.

21. Strable certified that he performed a complete visual inspection of the interior and exterior areas of the subject property. That was not true. Brandon Fox inspected the inside and outside of the property.

22. Strable was required to adhere to the preprinted "SCOPE OF WORK" found on Exh. 1 at 63. Using the preprinted Fannie Mae Form 1004 for a federally related transaction required Strable to comply with its directives including performing a visual inspection of the interior and exterior of the premises, inspecting the neighborhood, inspecting each of the comparable sales, etc.

23. Strable's appraisal report uses one land listing to justify the site value for the subject. No appraisal methodology was employed or analysis attempted to

¹ See <https://www.asc.gov/Legal-Framework/ASC-Policy-Statements/PolicyStatements.aspx>

support the opinions and conclusions contained in the report, resulting in a misleading appraisal.

24. Strable checked the box “present use” when identifying the “highest and best use” of the property. Strable’s appraisal was a summary appraisal report which requires summarizing the rationale of his opinion of highest and best use. Strable indicated that the highest and best use of the properties was residential, but provided no supporting information or analysis. Strable used a URAR form for the appraisal which only asked for more information if “no” is checked. However, USPAP requires more analysis of why the highest and best use is residential or any other status.

25. The cost approach section of Strable’s appraisal applied the 2006 version of Marshall and Swift Residential Cost Handbook. The report form requires the appraiser to provide adequate information for the lender/client to replicate the cost figures and calculations. Veerkamp could not replicate the calculations because neither the appraisal report nor the workfile contained any calculations or support for the information in the appraisal report. Veerkamp also tried using the 2010 Marshall and Swift updates in hopes of determining how Strable developed his cost figures and calculations, but still could not.

26. The report applied the Marshall and Swift Residential Cost Handbook. The report identifies the subject improvements have an effective age of 17 years and, under the cost approach, identified the remaining economic life of 63 years. The sum of those figures results in a building life of 80 years. Marshall and Swift lists a typical building life of 55-60 years for a comparable structure. This error would skew the depreciation and would affect the conclusion.

27. The sales comparison approach to value lacks data and analysis for the adjustments made to each of the comparable sales. The report provides only one listing for site with no analysis of closed sales, and no summary of appraisal procedures employed to arrive at the stated adjustments. One comparable adjustment is based on a factual error concerning the heating system. The report lacks support for adjustments identified as “Oth-Amen-Ave+.” The report fails to summarize how the three values from the three closed sales were reconciled to the final value conclusion. There is insufficient data to identify what the appraiser is attempting to adjust. Strable attempted to explain a factual error by claiming his entry “ebb” (electric baseboard heat) was a typographical error – not a substantive error – and he meant to type “gfa” (gas forced air). This was a substantive rather than a typographical error.

Case No. 624-2012 - Cook Appraisal

28. This case results from a complaint filed by Lee Cook regarding an appraisal Strable performed on April 26, 2010 involving the real property known as 1020 Wildwind Road, Helena, Montana. The appraisal was conducted for purposes of refinancing the home with “Wells Fargo, N.A.” Cook alleged among other things that Strable had not personally inspected the property.

In his response to the complaint, Strable did not deny that Brandon Fox completed the inspection, but asserted that he prepared the appraisal report. The scope of work printed on the report form requires: “the appraiser must, at a minimum: (1) perform a complete visual inspection of the interior and exterior areas of the subject property.”

29. In the sales comparison section of Strable’s appraisal he fails to correctly identify the appraisal problem, to determine the scope of work necessary to solve the land value for the subject, and to explain the differences between the land values of each of the comparable sales. Neither the appraisal report nor the workfile contain any recognized appraisal methodology, summary of a recognized appraisal methodology, or the data used to determine the adjustments in the site differences of the comparable sales.

30. The appraisal report provides, “The extraordinary assumptions include, but are not limited to: the condition of the foundation, the condition of the roof, etc. . . .” yet fails to actually make any assumptions regarding these elements. A report disclosing an extraordinary assumption must “clearly and conspicuously state that the use of the extraordinary assumption might have affected the assignment results.”

31. The subject improvements have an actual age of 14 years, but the report provides for an effective age of the improvements of 8 years. The report states, “Typical depreciation was noted, based on some updating.” There is no support for the reduced effective age in the appraisal report.

32. Strable checked the box “present use” as identifying the “highest and best use” analysis. Strable’s appraisal was a summary appraisal report which requires summarizing the rationale of his opinion of highest and best use. Strable indicated that the highest best use of the properties was residential, but provided no supporting information or analysis. Strable used a URAR form for the appraisal which only asked for more information if “no” is checked. However, USPAP requires more analysis of why the highest and best use is residential or any other status.

33. The cost approach fails to support the land as though vacant value conclusion with any recognizable appraisal methodology. The report stated “Site value was taken from sales comparison of vacant lots in the area and personal knowledge.” The report contains information about one listing of a property. This is not a sale and is only offered for sale. The workfile does not contain any vacant site sales and does not contain any recognizable methodology to support the stated conclusion for the site value.

34. Strable signed the “Appraiser’s Certification” preprinted certification form knowing he was misleading the intended users about his participation in the appraisal process. Strable averred that he had not withheld any significant information and averred that he had performed an inspection of the interior and exterior of the property, both of which were untrue.

Gregory Strable Testimony

35. These cases arose upon the homeowners’ complaints that Brandon Fox – not Gregory Strable – performed the inspections of their properties. Strable denied any wrongdoing in his answer to both complaints and maintained to the date of trial that Brandon Fox had not conducted the appraisal inspections.

36. At hearing, Strable finally admitted that he did not inspect the Cook and Mann homes.

37. Strable willfully suppressed evidence by not responding to Veerkamp’s multiple requests for documentation needed for her investigation and appraisal review and by hiding the whereabouts of Brandon Fox. This willfully suppressed evidence would have been adverse if produced. Mont. Code Ann. § 26-1-602(5). Strable remained in contact with his employee, Brandon Fox, during the entire pendency of these cases. It was within Strable’s power to subpoena Brandon Fox to testify. Strable offered weaker evidence leading to the presumption and finding that Brandon Fox’s testimony would also have been adverse. Mont. Code Ann. § 26-1-602(6).

38. Strable exhibited a continuing pattern of failing to abide by routine discovery even after an explicit order by the hearing officer to produce records. When ordered to produce appraisals from 2009 forward involving property inspections by others, Strable produced only four appraisals from 2006. In those four appraisals Brandon Fox is expressly identified as a “candidate appraiser.” Fox participated in many other of Strable’s appraisals as indicated by Strable’s refusal to

produce them because the volume was “burdensome” and because Strable paid Fox at least \$60,000 annually as an “independent contractor.”

39. By stipulation of the parties, the hearing officer finds that Strable has not now nor has he had in the past a mentor endorsement to his real estate appraiser license and Brandon Fox at no point has been licensed as a trainee or as a real estate professional of any sort.

40. Strable’s testimony that he could not even guess what his income was is not credible.

41. Strable did not offer any expert opinions contrary to Veerkamp’s concerning the quality of his appraisals on the Mann home or the Cook home. With the exception of his testimony discussed in Finding of Fact 27, Strable did not attempt to rebut Veerkamp’s testimony about the many USPAP violations cited in her reports, Exhs. 1 and 2, and detailed in her testimony.

Strable’s defense to the complaints was that he has ceased using undisclosed assistants to inspect properties in October 2010, after he settled his initial three complaints in Wyoming, all of which included such violations, but he did not stop the practice. Strable had four later complaints brought against him in Wyoming that once again involved the use of unlicensed and undisclosed assistants. One of those complaints involved an appraisal conducted on February 22, 2011. Strable’s testimony that he stopped the practice of using unlicensed and undisclosed assistants is not credible.

42. Strable referred to Brandon Fox’s participation in both the Cook and Mann appraisals. However, that reference was misleading because it did not disclose Brandon Fox’s true role in preparing the two appraisal reports. Those references read:

Assistance was provided from Brandon Fox in the following areas: Research of county and state records, communication with local realtors, and data entry.

Exh. 1 at 68; Exh. 2 at 96.

Strable’s reference to Fox failed to note that Fox had a much larger role in conducting the appraisal. Fox visually inspected both properties which was a violation of the terms of the URAR form Strable used for these appraisals. Toward the end of Strable’s testimony, the hearing officer asked Strable a few questions to clarify what he and his attorney had stipulated to with regard to his and Fox’s role in the appraisals:

Q. Can you tell me what you admitted to with regards to the Cook and Mann complaints? What did you do and what did Mr. Fox do in those appraisals?

A. Mr. Fox completed the inspection. Sometimes he passes the appraisals off to me to complete. I doubt that happened. I probably pulled some of the data for him and let him include it. I would have added possibly the comparable pictures, I would have signed it, I would have gone over it with him and I would have sent it off. That's probably what happened, my best --

Q. So he could have filled out the form and you signed off on it?

A. Absolutely. But like I said before, it's completely my responsibility for anything that's in that report that I signed. Tr. 212-213.

From this testimony it appears that at least with regard to some of Strable's appraisals, Fox or another one of Strable's assistants complete the appraisal and Strable merely signs off on it. *Id.*

43. Both the Cook and Mann appraisals contain the same certification, both using identical uniform residential appraisal report (URAR) forms 1004. In both instances, Strable signed the report certifying that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.

2. I performed a complete visual inspection of the interior and exterior areas of the subject property. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the liveability, soundness, or structural integrity of the property.
...

7. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice
...

8. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
...

9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
...

14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions . . . observed during the inspection of the subject property. . . .

15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.

...

19. I personally prepared all opinions and conclusions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks.

...

25. Any intentional or negligent misrepresentation(s) contained in this report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et. seq., or similar state laws.

Exh. 1 at 64-65; Exh. 2 at 52-53. Each of these sworn certifications was false.

44. Strable typically charged his client \$400 for a residential appraisal similar to the Cook and Mann appraisals. Both the Manns and Cook are entitled to a refund of no less than \$400.

45. Strable admitted that in responding to the two complaints before the Board's Screening Panel he was deliberately ambiguous to avoid discipline. He "just figured it was better to be ambiguous." Tr. 149. When asked whether Strable's disclosure regarding Fox's level of involvement was true, Strable responded, "not thoroughly." Tr. 151. When asked about whether he believed that "appraisers have to be truthful and have unimpeachable integrity," Strable responded "[s]omewhat." Tr. 168. Strable himself defined the term lie as follows "lie is intent to mislead or the intention to mislead -- intending to mislead." Tr. 169.

46. Based on Strable's testimony that he provided intentionally ambiguous responses to the complaint and during the investigation, the hearing officer finds that except for his admissions against interest, Strable's testimony lacks credibility.

47. Strable claims that these cases are the result of personal bias against him. Strable admitted that the Manns and Cook filed their complaints independent of any Department influence. Strable suspects that the Department and its staff and the Board are biased against him, but provided no evidence to support his assertions.

48. Strable admitted that a violation of USPAP is “significant” in considering a violation of Montana professional standards for real estate appraisers. Tr. 167.

49. Strable acknowledged that real estate appraisers are “a key element of our financial industry.” Tr. 167:19-24. Strable conceded he knows real estate appraisers “need to be honest.” Tr. 169:3-10.

Teri Smith Testimony

50. Teri Smith for eight years has served as the compliance specialist for the Board. In that capacity, Smith shepherds complaints through the system from initial citizen inquiries through complaint, screening, and, when necessary, Board adjudication. Tr. 214-17. Smith does not solicit complaints.

51. Smith’s role as compliance specialist requires her to follow and monitor any discipline including fines and/or probation that may be imposed. Tr. 222. Smith is familiar with the Board’s common sanctions practices. Smith testified that the Board applies a practice of “graduated sanctions.”

52. Strable suggests that the hearing officer in this case enter a sanction order consistent with Wyoming’s last order. The Montana Board has not restricted itself to the discipline standard of another state. Tr. 227.

53. Strable has already been issued a suspension, stayed, in Wyoming. In Strable’s prior cases before this hearing officer, the recommended final order was a three-year suspension.

54. Strable refused to disclose any financial information about his business.

55. Strable offered Respondent’s Exhibit N, a disciplinary matrix produced by the Appraisal Foundation, the body authorized by Congress as the source of appraisal standards. The matrix suggests sanctions states’ regulatory boards should impose in a variety of specific fact patterns. Montana has not adopted that voluntary matrix, yet several of its examples set forth fact patterns identical to Strable’s conduct at issue here. Those examples include:

Ethics Rule/Record Keeping Section, “Failure to provide the workfile to a state enforcement agency, when requested.”

Scope of Work Rule, “Failing to disclose that the appraiser signing the appraisal did not inspect the subject property but that he relied on an inspection performed by another.”

Exh. N at 3, 5.

In each case a first offense is a Level III category, second offense is Level IV, and third offense is Level V. The sanctions associated with the various levels are graduated in severity with Level V being the most severe and providing for:

Revocation or voluntary surrender in lieu of disciplinary action with or without large fine, payment of restitution and/or costs.

56. Strable has on his record seven Wyoming complaints all of which involved Strable’s use of and failure to disclose the assistance of others performing inspection of property being appraised.

57. Strable admitted the cases at bar mirror the Wyoming violations:

Q. What were the nature of the Wyoming infractions?

A. The biggest, there was, I think, some USPAP violations, the biggest was the fact that I had signed being on the property, or I did not report that I was not the one to physically inspect it. I did not add Robert Blowers, I did not say that he inspected the property.

Q. Similar to the complaints that we have here today?

A. Exactly the same statement, just that Brandon Fox instead of Robert Blowers.

Tr. 203:4-15.

58. On or about April 6, 2009, the Wyoming Certified Appraiser Board received a complaint about Strable’s appraisal of property in Riverton, Wyoming. This complaint was denominated A-09-006.

59. On or about December 2, 2009, the Wyoming Certified Appraiser Board received a complaint about Strable’s appraisal of property in Dubois, Wyoming. This complaint was denominated A-10-004.

60. On or about January 11, 2010, the Wyoming Certified Appraiser Board received a complaint about Strable’s appraisal of property in Encampment, Wyoming. This complaint was denominated A-10-006.

61. Complaints A-09-006, A-10-004, and A-10-006 all involved Strable's certification that he had physically inspected the interiors and exteriors of the subject properties, when in fact, he had not. Strable had also failed to disclose to the Wyoming Board that he was using trainees and had failed to maintain an appraisal log with the trainee. The Wyoming Board alleged that Strable had violated its rules regarding the use of trainees and had violated the USPAP ethics standards, USPAP Standard Rule 2-2 regarding use of assistants, and USPAP Standard Rule 2-3 regarding an appraiser's certification.

62. On October 26, 2010, Strable decided that rather than go to hearing on the complaints, he would execute a settlement agreement with the Wyoming Board that included:

A one-year probation;

Suspension from practice for 30 days which would be suspended if:

Strable paid a \$5000 fine;

Strable attended an in-person Supervisor/Trainee course or seminar approved by the Board which would not count toward his renewal education requirements;

Strable notified the Wyoming Board of each trainee under his supervision within 10 days;

Strable had the trainees comply with Wyoming Law;

Strable attended one in-person USPAP class of 15 hours duration on March 28-29, 2011 in Tigard, Oregon;

Strable attended one in-person ethics class (Appraisal Institute Class of Business Ethics) of 7 hours duration on February 11, 2011 in Tukwila, WA; and

Strable attended either the 7 hour "Whatever Happened to Quality Assurance in Residential Appraisals" class or the "Most Common USPAP Violations in the URAR and 1025 Farm reports."

63. On or about February 2, 2010, the Wyoming Certified Appraiser Board received a complaint about Strable's appraisal of property in Edgerton, Wyoming. This complaint was denominated A-10-007.

64. On or about October 29, 2010, the Wyoming Certified Appraiser Board received a complaint about Strable's appraisal of property in Riverton, Wyoming. This complaint was denominated A-11-006.

65. On or about February 11, 2011, the Wyoming Certified Appraiser Board received a complaint about Strable's appraisal of property in Riverton, Wyoming. This complaint was denominated A-11-009.

66. On or after June 20, 2011, the Wyoming Certified Appraiser Board received two complaints about Strable's appraisal of property in Thermopolis, Wyoming. These complaints were denominated A-11-013 and A-12-001.

67. The appraisals at issue in the Thermopolis, Wyoming, cases were conducted on February 22, 2011, four months after Strable testified he had stopped using assistants whose actual role in an appraisal was not properly disclosed. These violations also involved Strable's undocumented use of trainees, his false certification that he had inspected the property, and other USPAP violations.

68. On August 24, 2011, Strable settled these complaints with the Wyoming Board which determined that Strable's license would be suspended for six months, which would be stayed providing Strable fulfilled the terms and conditions of a one-year probation. Those terms and conditions included:

Strable providing a log on a quarterly basis to the Wyoming Board of all residential properties he performs an appraisal on beginning August 1, 2011; Strable providing a complete workfile of properties selected by the Wyoming Board from the quarterly logs Strable provided; and Strable was required to formally request reinstatement of his permit.

69. Strable did not report any of these Wyoming complaints or disciplinary actions to the Montana Board of Real Estate Appraisers.

Appraisal Standards

70. Mont. Code Ann. § 37-54-403 is entitled Standards of Professional Appraisal Practice and provides that:

(1) A licensed or certified real estate appraiser shall comply with generally accepted standards of professional appraisal practice, evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation. A licensed or certified real estate appraiser shall comply with these standards regardless of whether the appraisal is a federally related transaction or is capable of being performed by an unlicensed person under 37-54-201(3).

71. The Preamble to the Uniform Standards of Professional Appraisal Practice (USPAP) provides:

The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

72. The conduct section of the USPAP Ethics rule provides:

An appraiser must perform assignments ethically and competently, in accordance with USPAP. An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

73. The USPAP Competency rule provides:

Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must:

1. disclose the lack of knowledge and or experience to the client before accepting the assignment;
2. take all steps necessary or appropriate to complete the assignment competently; and
3. describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

74. The USPAP Scope of Work rule provides:

For each appraisal, appraisal review and appraisal consulting assignment, an appraiser must:

1. identify the problem to be solved;
2. determine and perform the scope for work necessary to develop credible assignment results; and
3. disclose the scope of work in the report.

An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.

Problem Identification

An appraiser must gather and analyze information about those assignment elements that are necessary to properly identify the appraisal, appraisal review or appraisal consulting problem to be solved.

Scope of Work Acceptability

The scope of work must include the research and analyses that are necessary to develop credible assignment results.

Comment: The scope of work is acceptable when it meets or exceeds:

1. The expectations of parties who are regularly intended users for similar assignments; and
2. What an appraiser's peers' actions would be in performing the same or a similar assignment.

An appraiser must be prepared to support the decision to exclude any investigation, information, method, or technique that would appear relevant to the client, another intended user or appraiser's peers.

75. USPAP Standards Rule 1-1 provides:

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 of omission or commission that significantly affects an appraisal; and
- (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 affects the credibility of those results.

76. USPAP Standards Rule 1-2 provides:

In developing a real property appraisal, an appraiser must:

...

- (e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal,

- (i) its location and physical, legal, and economic attributes; including:
- (ii) the real property interest to be valued;
- (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;
- (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and
- (v) whether the subject property is a fractional interest, physical segment, or partial holding;
- (f) identify any extraordinary assumptions necessary in the assignment;

77. USPAP Standards Rule 1-3 provides:

When necessary for credible assignment results in developing a market value opinion, an appraiser must:

...

- (b) develop an opinion of the highest and best use of the real estate.

78. USPAP Standards Rule 1-4 provides:

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

- (a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.
- (b) When a cost approach is necessary for credible assignment results, an appraiser must:
 - (i) develop an opinion of site value by an appropriate appraisal method or technique;
 - (ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and
 - (iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

79. USPAP Standard 2 provides:

In reporting the results of a real property an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

80. USPAP Standards Rule 2-1 provides:

Each written or oral real property appraisal report must:

- (a) clearly and accurately set forth the appraisal in a manner that will not be misleading;
- (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; . . .

81. USPAP Standards Rule 2-2 provides:

(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

- . . .
- (iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;
- . . .
- (vii) summarize the scope of work used to develop the appraisal;
- (viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;
- (ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.
- (x) clearly and conspicuously:
 - .. state all extraordinary assumptions and hypothetical conditions; and
 - .. state that their use might have affected the assignment results; and
- (xi) include a signed certification in accordance with Standards Rule 2-3.

82. USPAP Standards Rule 2-3 provides:

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

— the statements of fact contained in this report are true and correct.

- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

83. Mont Code Ann. § 37-1-316 Unprofessional Conduct provides:

The following is unprofessional conduct for a licensee or license applicant governed by this part:

...

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

...

(14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, by the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a

disciplinary proceeding or other legal action, or by use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

...

(18) conduct that does not meet the generally accepted standards of practice.

...

IV. DISCUSSION

The appraisals at issue in these two cases indicate that Strable lacks the requisite knowledge and competency to avoid conducting appraisals in a manner which demonstrates carelessness and negligence. His primary violation is using others to conduct the inspection portion of the appraisal or perhaps even to complete the appraisal that he signs off on as his own. Upon examination of those appraisals it becomes clear that he fails to employ proper reasoning and recognized techniques, and to comply with the generally accepted standards of practice. As a result, his appraisals contain conflicting and misleading results that he fails to reconcile or explain. Strable's appraisal practices make it difficult for an intended user to understand his appraisal reports and to replicate his conclusions. These appraisal practices do not fulfill the purposes of USPAP to promote and maintain a high level of public trust.

The aforementioned USPAP violations merit revocation of Strable's license. That conclusion is compounded by his conduct during the investigation of these complaints and his pattern of deception. He has demonstrated: willingness to forego ethical conduct, to obstruct a legitimate investigation, and to fail to disclose legitimately requested information. His intentionally ambiguous answers to questions and his failure to comply with an order from this tribunal leave no doubt that in order to protect the public revocation is required. His proven willingness to deceive calls into question every appraisal he has ever conducted.

Strable also indicated several times that he stopped the practice of using unlicensed trainees to conduct inspections and more in his appraisal practice after he settled similar violations in Wyoming on October 26, 2010. However, the record shows that on February 22, 2011, Strable completed an appraisal in Wyoming where he failed to disclose the true extent of the work performed by his assistant, Robert Blowers. Strable was sanctioned for that conduct by the State of Wyoming. Strable simply cannot be believed.

Strable argues Veerkamp is not competent under USPAP to evaluate or to testify regarding his appraisals. He first argues that she has not taken the requisite

training to maintain her licensure. This argument has no basis in fact. Veerkamp testified to the fact that she took the relevant coursework, but mistakenly omitted her 2011 USPAP class from Exhibit O at the time of the hearing in this matter. Veerkamp supplemented her curriculum vitae to show that she had in fact taken the requisite coursework. Exhibit P. Strable provided no evidence to the contrary.

Strable secondly assails Veerkamp's competency arguing that she does not have the knowledge of the Helena area geography to be competent to evaluate Strable's appraisals. This argument fails because USPAP in its very exacting Frequently Asked Questions (and responses) indicates that an appraiser conducting a Standard 3 review need not have knowledge of the geographic area where an appraisal took place in order to determine if it was conducted in compliance with USPAP. While FAQ 266 does state that geographic competence may be relevant to the issue of choosing comparables and evaluating them, Veerkamp is living in the Helena area and has appraised in this market in the not so distant past.²

The most damning conduct here is Strable's use of improperly disclosed assistants, which he ultimately admitted to, and his conduct during the investigation into these appraisals. Strable did not respond at the outset of the Board's investigation, "yes, I made some errors here and I will correct them going forward." This hearing might not have been necessary had he done so. Instead he intentionally obstructed the investigation and revealed his lack of high regard for honesty. Such conduct must be taken into account when determining the appropriate sanction.

Strable argued that no one was harmed so he should not be sanctioned at all or in the alternative only with some form of mild probation and a fine. Clearly the Manns and Cook were harmed when they paid for appraisals that were so full of errors as to be incredible. How can the public not be harmed when Strable employs assistants whose qualifications to conduct any part of an appraisal are in doubt, let alone when he abets those assistants in evading the Board's investigators? The public and this nation rely on the honesty and professionalism of real estate appraisers to ensure that buyers, sellers, and lenders have faith in their transactions. It does not appear that Strable's continuing education courses required by the State of Wyoming had any rehabilitative effect on his appraisal work. Ordering more would seem an

² Even if it is later determined that Veerkamp needed to have recent real property appraisal experience in order to be competent to review Strable's comparables in the Cook and Mann appraisals, such a determination would only affect three of Strable's numerous USPAP violations found by the hearing officer.

ineffective means of protecting the public. His continued violations of USPAP and worse yet his propensity to deceive and intentionally mislead require that he not be allowed to hold an appraiser's license in the State of Montana.

V. CONCLUSIONS OF LAW³

1. The Board of Real Estate Appraisers has jurisdiction over these matters. Mont. Code Ann. § 37-54-105.

2. The Department bears the burden of proof to show by a preponderance of the evidence that the licensee committed an act of unprofessional conduct. Mont. Code Ann. § 37-3-311; *Ulrich v. State ex rel. Board of Funeral Service*, 1998 MT 196, 289 Mont. 407, 961 P.2d 126. The Department must also show that any sanction which it seeks is appropriate under the circumstances of the case. The Department has sustained those burdens.

3. Strable abused the discovery process and failed to abide by the hearing officer's explicit order compelling discovery. Consequently, discovery sanctions under Mont. R. Civ. P. 37(b)(2) are warranted. Because of his purposeful and systematic violations, Strable must submit all of his appraisals conducted with the use of assistants for the years 2008, 2009, 2010, and 2011 within 30 days of the Board's decision in this matter.

4. Strable was in regular contact with a crucial witness, Brandon Fox, throughout the pendency of this case, yet failed to supply to the Department contact information for Brandon Fox and failed to call Brandon Fox as a witness. It is presumed that if Brandon Fox testified it would have been adverse to Strable's position. Mont. Code. Ann. § 26-1-602(5), (6).

5. Montana licensed appraisers must "comply with generally accepted standards of professional appraisal practice" as evidenced by the Uniform Standards of Professional Appraisal Practice. Mont. Code Ann. § 37-54-403(1). In addition, Admin. R. Mont. 24.207.402 provides that the Board adopts by reference USPAP standards.

6. Montana licensed appraisers, like all Montana licensed professionals, must not engage in conduct that fails to meet generally accepted standards of practice. Mont. Code Ann. § 37-1-316(18). By violating USPAP, and by deceiving and

³ Statements of fact in the conclusions of law are incorporated by reference to supplement the findings of fact. *Coffman v. Niece* (1940), 110 Mont. 541, 105 P.2d 661.

intentionally misleading the Board and his clients, Strable failed to meet generally accepted standards of practice and, therefore, he has committed sanctionable unprofessional conduct.

7. Montana appraiser licensees must cooperate with Board investigations and must supply records to the Board when asked to do so as part of a Board inquiry. Mont. Code Ann. § 37-54-416(3) and Admin. R. Mont. 24.207.403(2). “Failure to comply with a request constitutes grounds for unprofessional conduct under 37-1-316, MCA.” Strable determinedly resisted the Board’s effort to investigate these cases.

8. It is unprofessional conduct for a licensee to sign or issue in the licensee’s professional capacity a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement. Mont. Code Ann. § 37-1-316(4). By signing certifications in both the Cook and Mann appraisals falsely affirming that he had personally inspected the dwellings, Strable committed to separate violations of this standard.

9. Based on FINDING OF FACT 21, Strable violated USPAP: ETHICS RULE, ETHICS RULE, Conduct Section, Standards Rule 1-1(b) and Standards Rule 2-3.

10. Based on FINDING OF FACT 22, Strable violated USPAP: ETHICS RULE - Conduct Section.

11. Based on FINDING OF FACT 23, Strable violated USPAP: SCOPE OF WORK RULE, Standards Rule 1-1(a), Standards Rule 1-1(b), Standards Rule 1-4(b)(i), STANDARDS RULE 2, Standards Rule 2-1(a), Standards Rule 2-2(b)(viii).

12. Based on FINDING OF FACT 24, Strable violated USPAP: Standards Rule 1-3(b), Standards Rule 2-1(a), Standards Rule 2-1(b), Standards Rule 2-2(b)(ix).

13. Based on FINDING OF FACT 25, Strable violated USPAP: COMPETENCY RULE, Standards Rule 1-4(b)(ii).

14. Based on FINDING OF FACT 26, Strable violated USPAP: COMPETENCY RULE, Standards Rule 1-4(b)(iii), Standards Rule 2-1(b), Standards Rule 2-2(b)(viii).

15. Based on FINDING OF FACT 27, Strable violated USPAP: COMPETENCY RULE, Standards Rule 1-4(a), Standards Rule 2-1(a), Standards Rule 2-1(b), Standards Rule 2-2(b)(viii).

16. Based on FINDING OF FACT 28, Strable violated USPAP: SCOPE OF WORK RULE, ETHICS RULE, ETHICS RULE - Conduct Section, Standards Rule 2-3.

17. Based on FINDING OF FACT 29, Strable violated USPAP: COMPETENCY RULE, SCOPE OF WORK RULE, STANDARD RULE 1, Standards Rule 1-1(a), STANDARD RULE 2, Standards Rule 2-1(b), Standards Rule 2-2(b)(viii).

18. Based on FINDING OF FACT 30, Strable violated USPAP: COMPETENCY RULE, Standards Rule 1-2(f), Standards Rule 2-2(b)(x).

19. Based on FINDING OF FACT 31, Strable violated USPAP: Standards Rule 1-2(e), Standards Rule 2-2(b)(iii), Standards Rule 2-1(a), Standards Rule 2-1(b), COMPETENCY RULE.

20. Based on FINDING OF FACT 32, Strable violated USPAP: Standards Rule 1-3(b), Standards Rule 2-2b(ix), Standards Rule 2-1(a) Standards Rule 2-1(b), SCOPE OF WORK RULE and COMPETENCY RULE.

21. Based on FINDING OF FACT 33, Strable violated USPAP: COMPETENCY RULE, Standards Rule 1-4(b)(i), Standards Rule 2-2(b)(viii), Standards Rule 2-1(a), Standard Rule 2-1(b).

22. Based on FINDING OF FACT 34, Strable violated USPAP: ETHICS RULE, ETHICS RULE - Conduct Section and Standards Rule 2-3.

23. Based on FINDINGS OF FACT 21, 28, 36, Strable violated Mont. Code Ann. § 37-1-316(4).

24. Upon proof of a violation of applicable standards, the Board is authorized to impose any combination of sanctions set forth in Mont. Code Ann. § 37-1-312. Among those sanctions are revocation of the licensee's license to practice as a real estate appraiser, a fine of up to \$1,000 per violation, and a refund of costs and fees billed to and collected from a consumer.

25. Before imposing any sanction, the Board is obligated by law first to consider sanctions necessary to protect or compensate the public. Mont. Code Ann. § 37-1-312(2).

VI. RECOMMENDED ORDER

1. To protect the public, it is ordered that Gregory Strable's Montana license to practice as a real estate appraiser, license number 750, is REVOKED. Within 24 hours of entry of the Final Order in this case, Strable is ordered to surrender his license by mailing it or delivering it personally to the:

Montana Board of Real Estate Appraisers
301 S. Park
P.O. Box 200513
Helena, MT 59620-0513.

2. To compensate the public, Strable is ordered to refund the costs billed to the consumers in the amount of \$400 each. This term must be satisfied within 10 days of entry of the Final Order in this case by submitting a cashier's check in the amount of \$400 payable to Karen and Peter Mann and a cashier's check in the amount of \$400 payable to Lee Cook mailed or delivered to the address noted in the preceding paragraph.

3. That based on the 65 substantial USPAP and statutory violations identified above, Strable is required to pay a penalty in the amount of \$500.00 per violation, totaling \$32,500.00.

DATED this 26th day of December, 2012.

DEPARTMENT OF LABOR & INDUSTRY
HEARINGS BUREAU

By: /s/ DAVID A. SCRIMM
DAVID A. SCRIMM
Hearing Officer

NOTICE

Mont. Code Ann. § 2-4-621 provides that the proposed order in this matter, being adverse to the licensee, may not be made final by the regulatory board until this proposed order is served upon each of the parties and the party adversely affected by the proposed order is given an opportunity to file exceptions and present briefs and oral argument to the regulatory board.