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 **Time Has Come Today**By Richard Hagar, SRA

The wheels of justice turn slowly but grind exceedingly fine. After years of working with regulators and helping write several real estate laws and regulations, my experience tells me that it cantake years for laws to be adopted and staff of regulatory agencies to be trained. It can take years before there is any enforcement or real change. Appraisers are upset with how slowly enforcement actions have been brought against various AMCs. Well, the time has come today.

Contrary to what some appraisers believe, the laws we have in place today were developed to protect appraisers, lenders, and of course the public, who relies on quality appraisals and an honest appraisal process. Better business practices, directed by laws, will allow appraisers, AMCs and lenders to survive, profit, and provide something of value to the American public: a high quality appraisal provided by a competently trained appraiser who is appropriately paid for his or her service.

And yet, for some people and organizations, if there’s a regulation they don’t like, they ignore it. When confronted with the regulation in black and white, they try to spin its meaning to their advantage. Why? Often it’s because new regulations can negatively impact their business practices and income. I see this in criminal and civil cases involving banks, AMCs, and appraisers.

Lenders, banks, credit unions and AMCs must follow certain hiring practices or face sanctions and fines from state and federal regulators. Many of these entities keep trying to ignore regulations or try to convince people that what the law states isn’t what it means. For instance, federal and state laws require lenders, and their AMC agents, to create and follow written policies explaining their methods for hiring and paying appraisers (that customary and reasonable fee thing).

As an example, here’s text from federal regulations:

“An institution should not allow lower cost or the speed of delivery time to inappropriately influence

its appraisal ordering procedures.”

The regulation is simple, direct, and easy to follow. However, it seems that a few major AMCs just don’t like that pesky regulation. AMCs continue to use “low-bid” email blast order systems. They hire appraisers based upon the lowest cost and fastest turn time. Emails, hiring policies, and comments made during appraiser conferences appear to indicate that many lenders and AMCs continue to purposefully ignore the regulations and refuse to pay appraisers a Customary and Reasonable (C&R) fee.

Here’s another example:

“An institution should not allow lower cost or the speed of delivery time to inappropriately influence

[...] the appraiser’s determination of the Scope of Work for an appraisal supporting a federally

related transaction.”

Clearly, it is the appraiser’s responsibility to “determine the Scope of Work” in an appraisal assignment. Many of us have had AMCs tell us “We don’t need the cost approach,” or “Don’t use comparable X but use our comparable Y,” or “You can’t make a line adjustment greater than 10 percent.” All of these statements are inappropriate attempts at influencing an appraiser’s Scope of Work. However, regulations state that it is the appraiser who determines the Scope of Work. Again, this is simple and to the point, yet is often ignored by the AMC or lender.

My final regulatory example:

“These policies and procedures should address the process for selecting the appropriate valuation

method for a transaction rather than using the method that renders the highest value, lowest cost, or fastest turnaround time.”

Lenders and AMCs are required to hire the best, geographically competent appraiser who is appropriately trained and capable of producing a high quality report that will protect the interests of the bank. Fast and cheap are not part of the criteria. Once two equally competent appraisers are selected for possible hiring, now the fee can be part of the final decision.

The problem is many clients use a cheap fee as the determiner of who will be considered for selection and hiring. They have the selection criteria reversed.

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The stage has now been set and lenders and AMCs who fail to follow the law are going to be impacted. While helping a government agency profile and understand the illegal actions of several AMCs and appraisers, I have discovered numerous state actions and agreements that involve AMCs and their failure to follow the law. It’s clear that states are finally beginning to answer the call for enforcement. Figure 1 below has just a few examples from a handful of states in the last few years.

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| AMC | State | Action |
| American Reporting Company | Washington | Removed Appraiser from Panel without Notification - $2,000 fine and license suspension (stayed for one year) |
| iMortgage | Louisiana | Failure to pay C&R fees – Final order; $10,000 fine and six month license suspension |
| Appraisal Express Corporation | Oregon | Unlicensed activity, failure to pay on time – Final Order; $87,500 fine |
| Appraisal Pro  | Minnesota | Unlicensed activity – Consent Order; $2,500 fine |
| AppraisalVendor.com LLC | Minnesota | Unlicensed activity – Consent Order; $2,500 fine |
| Coester VMS | North Carolina | Failure to pay on time - Consent Order; $10,000 payment |
| Coester VMS | Tennessee | Failure to submit biannual certification |
| Coester VMS | Louisiana | Failure to pay C&R – Memorandum (no admission of guilt); $5,000 Admin. Cost  |
| Coester VMS | Minnesota | Unlicensed activity, false advertising, failure to respond - Consent Order; $12,500 fine |
| Interthinx | Minnesota | Unlicensed activity - Consent Cease and Desist Order; $12,500 fine |
| Landmark Network, Inc. | Minnesota | Unlicensed activity – Penalty Agreement $2,500 |
| Liberty One | Minnesota | Repeat Failures - Civil Order; $20,000 fine |
| Nadlan Valuations, Inc  | Minnesota | Unlicensed activity, false and misleading statements – Conclusions of Law; $30,000 fine |
| Preferred Appraisals | Minnesota | Unlicensed activity – Consent Order; $20,000 fine |
| Residential RealEstate Review | North Carolina | Failure to pay on time - Consent Order; $1,000 fine |
| US Appraisal Group, Inc. | Minnesota | Failure to pay appraisers - Conclusions of Law; $50,000 fine |
| Vesta Valuation, LLC  | Minnesota | Failure to timely pay appraisers – Consent Order; Revocation of license, $50,000 fine |

After reading some of these state actions, you get the feeling that many AMCs believe themselves to be above the law or were trying to twist the meaning of the law to suit their needs. These cases mark the beginning of government actions against AMCs. Minnesota, Louisiana, North Carolina, Oregon, Washington, and Tennessee are leading the way; other states are right behind them. There are numerous (let me repeat that), NUMEROUS investigations currently underway in many states. There will be more investigations and increased enforcement actions and penalties. A $50,000 penalty is a blip compared to what is being contemplated by one government agency right now.

**A Word of Warning**

I’m trying to keep you safe out there by providing words of warning:

Lenders—Be careful whom you hire to manage appraisers. Government agencies are examining your hiring policies, procedures, and your required testing of third-party vendors (AMCs). If lenders fail to follow safe and sound practices and institute proper procedures, they face millions in fines. (If you need help, I can assist with establishing proper policies and procedures.)

AMCs—Get licensed. Stop trying to find fast and cheap. Pay appraisers their full fee and demand high quality appraisals in return. AMCs that fail to do this are being examined, fined and prohibited from doing business in many states.

Appraisers—Provide high quality appraisals and support your adjustments. Provide appraisal services in a polite, businesslike manner and increase your fees. Become a Tier 1 appraiser.

The Time Has Come Today is a song by the Chambers Brothers circa 1966. Give it a listen because this business will get better.

**About the Author**
Richard Hagar, SRA is an educator, author and owner of a busy appraisal office in the state of Washington. Hagar now offers his legendary adjustments course for CE credit in over 30 states through OREPEducation.org. The new 7-hour online CE course How to Support and Prove Your Adjustments shows appraisers proven methods for supporting adjustments. Learn how to improve the quality of your reports and defend your adjustments! OREP members save on this approved coursework. Sign up today at [www.OREPEducation.org](http://www.OREPEducation.org).



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