

September 18, 2005

SEP 23 2005

Ms. Virginia M. Gibbs, Chairperson  
Federal Financial Institutions Examinations Council  
Appraisal Subcommittee  
2000 K Street, NW, Suite 310  
Washington, DC 20006

Re: Response to Letter dated July 18<sup>th</sup>, 2005

Dear Ms. Gibbs:

Please find contained herein the response of the Office of the Attorney General (OAG) to the letter dated July 18, 2005, which identified weaknesses in Indiana's appraiser regulatory program ("Program"). Our response will cover the deficiency concerning compliance with Title XI and ASC Policy Statement 10, as it is our understanding that the remaining three deficiencies of the Program are addressed under separate letter by the Indiana Real Estate Appraiser Board.

We agree with the Board's assessment in 2002 that the primary problem underlying the Program has been the lack of sufficient funding to provide adequate resources to address the large volume of complaints to be investigated and prosecuted by the Office. The statutory duty of the Attorney General's Consumer Protection Division, in which the function of investigation and prosecution of professional licensing complaints has resided for over twenty years, is consumer-based under Indiana Code 25-1-7-1 *et seq.*

We are under a statutory duty to investigate any and every signed complaint which alleges a potential violation of disciplinary statute. This presents a significant challenge for our Office in setting priorities, where we also deal with considerable threats to public health and welfare, such as chemically impaired or criminally minded health professionals.

Therefore, we were grateful to the real estate and appraiser community for their willingness to support legislation in 2003 that would require them to adopt fees to raise this additional funding. These investigation fees, which were adopted in 2004 to be



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collected along with licensure and renewal fees, have started to come in beginning in 2005. As of August 23, 2005, OAG had received \$88,237 from the Real Estate Fraud Investigation Fund.

Even prior to receiving that funding, OAG allocated additional resources to investigation of real estate appraisals cases. In 2003, OAG contracted with retired IPLA Investigator Lee Mohs to assist our Professional Licensing Investigations and Professional Litigation staff in developing expertise in real estate appraisal cases and to assist in the investigation and prosecution of those cases.

In May 2005, OAG created the new position of Complaint Analyst Supervisor in Professional Licensing Investigations to provide more structure in the course of such investigations. The first Supervisor is Tracey Nguyen, a former law clerk to the section with a management degree and a law degree.

The first influx of Real Estate Investigations funding has allowed OAG to add a Deputy Attorney General (DAG) position, which is dedicated solely to investigation and prosecution of real estate fraud as part of the new Home Owner Protection Unit. Kathy Hulbert previously worked as a DAG for Professional Licensing Litigation and has occupied her new position since May of 2005.

OAG is utilizing additional resources to address the real estate appraiser complaints in a more expeditious manner. In July of 2005, OAG began receiving funding for the enforcement of the Home Owner Protection Statute under Indiana Code 24-9-1-1 et seq. OAG has combined the Real Estate Investigation Funding with the funding for the Home Owner Protection law and created the Home Owner Protection Unit (HPU). HPU consists initially of three positions: two DAG positions and a paralegal. As mentioned above, Kathy Hulbert fills one position. The other DAG position is in final interviews. The HPU paralegal position has been filled by Kelly Wynn, who has seven years of solid paralegal experience. The staff of HPU reports directly to the Director of the Consumer Protection Division. Please find attached an organization chart detailing Professional Licensing Investigations, Professional Licensing Litigation, and HPU.

The next influx of Real Estate Investigations funding will occur with next round of renewals for real estate salespersons, which should bring revenues of approximately \$200,000 to OAG. OAG is currently in discussions with the Indiana Professional Licensing Agency (IPLA) regarding the execution of a Memorandum of Understanding which would allow OAG to hire or contract additional investigators and charge back the expense of those investigators to IPLA's share of the Real Estate Investigation Fund. Both agencies have agreed that OAG supervision of investigation personnel would eliminate the redundancy inherent in an IPLA investigation that must, by statute, be re-

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investigated by OAG. This issue is expected to be resolved shortly. Until this issue is resolved, OAG will not make a firm decision on which kinds of positions should be created for OAG's share of the funding.

In addition to the creation of new DAG, investigator, paralegal, and supervisory positions, OAG has also sought additional training for staff. Obviously, both the HPU and Real Estate Investigative Funds may be used for education and training. With the cooperation of Board members, OAG has provided in-house training for appraisers for Investigations staff OAG has made arrangements with the best providers of continuing education for appraisers for its staff to attend sessions free of charge. Furthermore, we have increased the training of staff as to the real estate process as a whole. Our efforts in this area will be ongoing.

As requested in the July 18<sup>th</sup> letter, a quarterly report will be sent under separate cover. Such reports contain information that is confidential under Indiana Code 25-1-7-10 and cannot be released to the public. By way of update, however, of the 253 cases examined in May of 2005 during the field review, 171 remain open, 82 have been closed. Of the 171 that remain open, 131 have made significant progress towards resolution. Since June of 2005, 11 administrative complaints have been filed against appraisers before the Board. Those complaints encompass multiple investigative complaints.

In conclusion, OAG is confident that with the additional funding and planning described herein and that the Committee will find Indiana's Program back in compliance with Title XI and ASC Policy Statement 10.

Sincerely yours,



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