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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 20, 2001

Andrew Metcalf, Jr., Director  
Department of Consumer and Industry Services  
Bureau of Commercial Services  
P.O. Box 30018  
Lansing, Michigan 48909-7518

Dear Mr. Metcalf:

Thank you for your cooperation and your staff's assistance in the August 27-29, 2001 Appraisal Subcommittee ("ASC") review of Michigan's appraiser regulatory program ("Program").

Your staff was most helpful during the course of our review, and we appreciated their efforts. We acknowledge that the Michigan occupational code and appraiser regulations were amended in 1999. They now are generally consistent with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"), and our concerns from 1997 have been resolved. Based on our current review, the following areas need your attention.

- **Appraiser-related complaints are not always investigated and resolved in a timely manner.**

The Bureau of Consumer and Industry Services' ("Bureau") complaint investigation and resolution process involves many administrative, investigatory, and legal steps. For this system to work in a timely manner, every step must be performed without delay. This does not always occur. We reviewed 40 open and 40 closed case files. The actions taken regarding these cases appeared appropriate. Additionally, the cases clearly reflected the Board members' involvement in the decision-making process. We found, however, that most complaints were in process for two to three years before final actions were taken. We identified four significant factors contributing to these delays.

- ***Agents/investigators are not able to begin working on cases promptly upon receipt of a complaint.***

The Enforcement Division ("Division") investigates complaints for approximately 24 professions. Most of the Division's complaints are not appraiser-related. Cases assigned to agent/investigators are queued and investigated in the order received. As a result, agents often do not begin investigating a case until many months after receiving the assignment. Enforcement Division Director Archie Millben and Audit Section Manager Alan Schefke stated that this delay is a result of the caseload each agent carries.

Based on discussions with Bureau staff during our review, we understand that the Bureau already is taking steps to address these delays. The Bureau is considering the use of one agent/investigator in the headquarters office to serve as a focal point for appraiser complaints.

This agent/investigator has received and will continue to receive appraisal-related and Uniform Standards of Professional Appraisal Practice (“USPAP”) training. He would refer cases to the field only if the cases need specific field investigation work. This new approach should reduce the number of cases referred to the field and, thus, eliminate one of the major bottlenecks in the overall process.

- ***Often, respondents are not notified at the start of the investigation of complaints filed against them.***

In most cases, respondents are not advised that complaints have been filed against them, and they are not requested to respond to allegations until an active investigation begins. As noted above, this often is many months after the Bureau received the complaint. In many instances, it then takes weeks or months for the Bureau to contact the appraiser and obtain satisfactory input. The Bureau should notify respondents immediately upon determining that jurisdiction exists. Obtaining the respondent’s input early in the process should provide agent/investigators a more complete set of information upon which to begin working.

- ***Board members have not always provided professional reviews in a timely fashion.***

We noted that your complaint investigation and resolution process often involves a Board member reviewing the complaint. We identified a number of cases where two to six months passed before the designated Board member provided the requested technical review. A majority of these instances involved a Board member who is no longer on the Board. Current Board members appeared to have been reasonably timely in responding. Nonetheless, it is important for us to note that prompt review action by a designated Board member is important to the overall timeliness of the complaint investigation and resolution process.

- ***Final orders are not issued until the Board meets and reviews the cases and recommended disciplinary action.***

Disciplinary actions do not become final and enforceable until the Board approves the actions. Because the Board meets infrequently (typically two or three times a year), dispositions otherwise determined (by negotiated agreement or administrative law judge hearing) were not acted on for up to five months. We reviewed one case in which the appraiser was found to have committed fraud and revocation was recommended, but the finding was not finalized for five months awaiting a Board meeting. Michigan needs to have a means of implementing disciplinary decisions more quickly. Bureau staff indicated that they would consider the possibility of video conferencing disciplinary decisions and/or a disciplinary committee that would have approval authority.

In summary, Michigan must establish procedures to ensure the more timely investigation and resolution of complaints, as discussed in ASC Policy Statement 10.

- **Temporary practice requests are not always processed within five business days of receipt by the State.**

Temporary practice is consistent with ASC Policy Statement 5 in all but one respect. A review of the temporary practice log and the corresponding files revealed that application

processing within the last year was occasionally delayed. Based on our review of the files, temporary practice applications were processed by the Licensing Division within three days of receipt by the Division. However, delays appear to have been caused by Department processing in other areas, particularly the mailroom.

The delays appear to have begun when mail-receipt authority was consolidated in the Department's main building in Lansing. Mail is delivered to the main office, then routed by internal mail to the various offices. Often, mail is not delivered to the Division's office until 3-5 days after receipt in the mailroom. We understand that the mailroom function is not within the Bureau's control and that the Bureau has notified the administrative services division about this delay in service. However, no solution has been forthcoming. We discussed a couple of alternatives that the Bureau staff agreed to explore. The Bureau needs to work with appropriate offices to implement policies and procedures to enable it to act on completed temporary practice applications within five business days of receipt by the State.

- **Michigan's National Registry fee payments historically have not corresponded to invoiced amounts, creating an accumulated invoice/payment difference of \$15,750.**

Michigan is timely with data submissions and fee payments, although fee payments historically have rarely corresponded to the invoiced amounts. Prior to January 2001, the Bureau transmitted the National Registry fees collected during the month and failed to reconcile the differing amounts reflected on our monthly invoices. As a result, a \$15,750 unreconciled balance due to the ASC accumulated over the years. We found that all of the differences were attributed to one of three circumstances: (1) An initial licensing period that could extend to 15 months; (2) significant lapses in expiration and subsequent reinstatement of previously awarded credentials; or (3) the change in credential due to upgrading or downgrading.

Appraiser licenses and certificates expire on July 31<sup>st</sup>. For initial licenses or certifications issued in the three months preceding July 31<sup>st</sup>, the Bureau issues credentials that are valid until July 31<sup>st</sup> of the following year. This results in an initial licensing cycle that can extend up to 15 months. The Bureau only collected a \$25 National Registry fee from these individuals and not the \$50 fee owed for 13-15 month credentials. Based on a line-by-line analysis of 52 invoices issued between January 1998 and May 2001, ASC staff determined that \$6,825 of the \$15,750 outstanding balance resulted from this practice.

Based on documentation provided by the Bureau during the review, ASC staff determined that another \$6,225 resulted from appraisers whose licenses lapsed and were reinstated, and appraisers who upgraded or downgraded. These activities do not require payment of an additional fee. Yet, the manner the activities were reported in the Bureau's monthly data submissions generated indicators in the National Registry that fees were due.

As we have with other States, the ASC agreed to waive payment of outstanding balances attributable to the initial licensing cycle, provided Michigan agreed to begin collecting and remitting correct fees. The Bureau agreed and has begun collecting and remitting appropriate fees. As noted above, this waiver accounts for \$6,825. Adjusting invoices for reinstatements and upgrades/downgrades accounted for another \$6,225 of outstanding fees. This left \$2,700 in outstanding fees. While on site, ASC staff determined that the underlying reasons for this difference appeared to have been identified and resolved. Since January of this year, the

Licensing staff has begun reconciling each invoice when received, thus eliminating future differences. ASC staff also agreed to work with Bureau staff to redesign the Bureau's data submission format to better reflect the effective date and expiration dates of reinstated and upgraded/downgraded credentials.

With these actions, the outstanding National Registry fee balance has been resolved. We appreciate the Bureau's cooperation in identifying and resolving the causes of the outstanding balance and taking action to eliminate future unpaid amounts.

In closing, we recognize the Licensing Division's initial efforts to ensure Michigan's appraiser statute and/or regulations are appropriately amended to conform to changes in the Appraiser Qualifications Criteria effective January 1, 2003. Please contact us if we can assist you in these efforts. Please notify us in writing once the changes have been adopted.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

If you have any questions, please contact us.

Sincerely,

Thomas E. Watson, Jr.  
Chairman

cc: Jean Boven, Licensing Division Director  
Archie Millben, Enforcement Division Director  
E. Roger Everett, Board Chairperson