

Mississippi Real Estate Appraiser
Licensing and Certification Board

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December 8, 1997

Mr. Herbert S. Yolles
Chairman, Appraisal Subcommittee
2100 Pennsylvania Ave., NW/Suite 200
Washington, DC 20037

RE: Letter Dated 10/15/97 to Ms. Jill Walters, Chairperson
Regarding Three Areas of Concern

Dear Mr. Yolles:

The Mississippi Real Estate Appraisers Licensing and Certification Board "**Board**" submits the following information in response to the three areas of concern listed in your letter dated October 15, 1997 to Ms. Jill Walters referenced above (supporting documents are also enclosed):

- I. **Complaints filed against [redaction] may not have been resolved in a manner consistent with other similar complaints or the Board failed to address apparent violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").**

"All documents and investigative reports were made available to your staff during their review; therefore, we will not attempt to restate the cases in question. We will strive to explain the Board conclusions regarding dismissal."

Case 1: One [redaction] was found to have falsified his application For certification by not identifying that he had been convicted of a misdemeanor in 1983 for possession of drugs and drug paraphernalia. Court records reviewed during the complaint investigation revealed that the [redaction] pled guilty to misdemeanor charge, paid a fine and was required to complete community service. Based on our file review and information obtained from Commission staff, we noted that the professional licenses of individuals who committed a similar offense

(falsifying an application) have been denied upon application, or suspended or revoked if previously issued. This **Board**, however, dismissed this case based on insufficient evidence. We are concerned with the appearance of inconsistent treatment of a complaint against a [redaction] versus similar complaints against other appraisers."

Response: The investigative matter was initiated after receiving anonymous information that an applicant, subsequently licensed and appointed to the Board, had failed to report a criminal conviction when applying for licensure. The matter was investigated, recorded, reviewed and recommended to be closed according to the procedures set forth by the Board to be followed in all investigative matters. The facts were identical to a case filed with the Real Estate Commission. The [redaction] also held an inactive brokers license.

The respondent, represented by legal counsel, appeared at a formal hearing called by the Real Estate Commission. The evidence was found to be insufficient regarding violation of statute and all charges were dismissed. In reaching a decision as to whether the respondent knowingly falsified his application or not, the commission had weighed heavily the statements made by Hinds County District Attorney Ed Peters. Mr. Peters had been responsible for the prosecution of the criminal case in question and stated, orally and in writing, that he had personally advised the respondent that the matter would be non-adjudicated and the record would not indicate a conviction. Mr. Peters appeared at the Commission hearing and was prepared to give testimony if called. The Board, acting in autonomy, considered the evidence and elected to close its investigation due to lack of substantial evidence sufficient to justify proceeding with formal charges.

Case 2: "In the second case, a [redaction] ex-employee alleged that the [redaction] had appraised a property of which he was part owner. While the investigative documentation does not indicate that he was part owner of the subject property, it does appear that there was a personal

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and/or business relationship between the [redaction] and the property owner. This conclusion is based on the fact that the [redaction] made personal loans to the property owner, and the property owner's wife worked for the While USPAP permits an appraiser to perform an appraisal in such circumstances, USPAP requires clear disclosure of the relationship. The Board did not address this specific issue. Also, although we could not find any documentation addressing violations or potential violations, documentation in the file indicated that a Letter of Education was to be sent to the [redaction]. We, however, could not find a copy of the Letter in either the investigation file or the [redaction] appraiser file."

Response: As in the preceding case, this matter was investigated, recorded and reviewed according to procedures set forth by the Board which are to be followed in all investigative matters. The investigator interviewed witnesses, gathered documents and recorded all evidence obtained during the investigation of the complaint. Research of the preceding data was presented to the administrator of the Board and to the Board 'a legal counsel prior to being given to the reviewing Board member for consideration. The reviewing Board member determined that the evidence was not sufficient to proceed with formal charges and the matter was dismissed. The reviewer did feel that the information gathered was sufficient to justify a letter of education to the respondent advising him to avoid even the appearance of impropriety.

Please be aware that the Board's letters of education are not to be confused with warning/ caution letters and are in no way meant to insinuate that a violation has occurred. The sole purpose of a letter of education is to advise the respondent of areas of practice that could be improved upon. A copy of the letter of education is enclosed as requested.

II. The State's record of certified and licensed appraisers is not consistent with the National Registry of State Certified and Licensed Appraisers.

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"A review of your records during our on-site review revealed a difference of 75 appraisers who are identified by the State as certified or licensed but who were not contained in the National Registry. Of these 75 appraisers, 14 were issued licenses in August 1997 and were on the State's September submission. One appraiser's license expired in 1995. We cannot account for the remaining 61 appraisers. Additionally, your staffs review of the records identified three licensed or certified appraisers who did not pay the Registry fee as required by Title XI;"

Response: Enclosed is a revised copy of your list showing dates fees were submitted. Also attached is a computer run and disc confirming our submission. Hopefully, the data supplied will be sufficient to resolve the matter.

III. The Board's regulations regarding Temporary Practice must be revised.

"Currently, Board regulations specify that temporary practice privileges expire within 90 days of receipt and do not provide an opportunity for an extension. As set forth in our revised Policy Statement 5, restricting temporary practice to less than six months and failure to allow an appraiser to receive at least one extension are considered burdensome. During the Board meeting our staff attended, the Board reviewed a proposal to revise its rules that, when adopted, would offer temporary practice for six months and permit a one-month extension. It is our understanding that this proposed rule will be approved and implemented by the end of November 1997. Please forward to us documentation of the Board's adoption of the revised temporary practice regulation.

Response: Enclosed is a copy of the rule promulgated by the Board that corresponds with the temporary practice requirements.

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If you have further questions, please contact me at (601) 987-3969 or by fax (601) 987-4173.

Sincerely,

John Neelley

Administrator

and

W.R. Moon

Deputy Director

/pmr

Enclosures