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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

September 26, 2006

Mr. Larry Wright, Chairman  
North Carolina Appraisal Board  
P.O. Box 20500  
Raleigh, NC 27619-0500

Dear Mr. Wright:

Thank you for the North Carolina Appraisal Board's ("Board") and staff's assistance during the August 14-15, 2006 Appraisal Subcommittee ("ASC") field review of North Carolina's appraiser regulatory program ("Program"). Based on our review, North Carolina needs to address two concerns to bring the Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

- **The Board renewed certified credentials for appraisers who did not meet the Appraiser Qualifications Board's ("AQB") continuing education criteria.**

North Carolina has an annual credential cycle and a biannual continuing education cycle. The Board implements and enforces AQB continuing education criteria appropriately for all appraisers except State legislators.

AQB criteria require appraisers to complete 14 hours of continuing education for each year of the continuing education cycle. In September 2005, the AQB adopted an Interpretation to its criteria regarding waivers or deferrals of continuing education requirements. Under that Interpretation, a State may place a credential holder on "inactive status" if the State determines that a deficiency in continuing education was due to extenuating circumstances. Before reactivating that credential, however, the credential holder must complete all required continuing education hours that would have been required if the credential had been "active," including the most recent 7-hour National USPAP Update Course.

Section 93E-1-7(a) of North Carolina's appraiser regulatory statute states, in pertinent part, "Members of the General Assembly are exempt from [continuing education] requirement during their term of office." Board staff previously had informed ASC staff about two certified appraisers who are long-standing members of the General Assembly. During our 2003 field review, we found that both appraisers repeatedly exercised the legislator exemption and chose not to submit continuing education documentation. Despite the appraisers' failure to document compliance with AQB criteria, the Board renewed these appraiser/legislators' certifications on June 30, 2003, and included them in the State's National Registry submissions.

In our June 20, 2003 field review letter, the ASC informed the Board that North Carolina's exception for members of the General Assembly was unacceptable for certified appraisers. To address this situation, the ASC instructed the Board to:

- Refrain from renewing the certification of any appraiser who does not meet AQB criteria regarding continuing education, including members of the North Carolina General Assembly; and
- Exclude any certified appraiser who fails to meet AQB criteria from the State's submission to the ASC for inclusion on the National Registry.

The Board, in its July 31, 2003 response to our letter, stated that it would contact the two legislators and inform them that they cannot be included on the National Registry unless they provide proof that they have completed the required continuing education.

During the current field review, we discovered that while the Board sent letters notifying the two legislators of the situation, the Board did not send the letters until August 25, 2004, more than a year after our 2003 field review letter. Additionally, the Board inappropriately renewed both credentials on June 30, 2003, and June 30, 2004.

After receiving the Board's August 25, 2004 letter, one of the appraiser/legislators documented sufficient continuing education (28 hours in the two-year CE cycle) to qualify for certification renewal on June 30, 2005. This individual chose to pay the National Registry fee and be listed as Active on the National Registry. Because this appraiser earned sufficient continuing education for North Carolina's June 30, 2005 renewal, the individual was fully qualified to hold that credential until the end of the next continuing education period on June 30, 2007. Because the June 30, 2005 renewal occurred before the AQB Interpretation became effective in September 2005, this appraiser/legislator did not need to "make-up" the continuing education missed during preceding continuing education cycles.

The other appraiser/legislator continued to rely on North Carolina's legislative exemption. This individual initially qualified as a certified residential appraiser in 1991, and upgraded to the certified general level in 1992. Since 1993, the Board has renewed the certified general credential each year; collected the National Registry fee each year, and listed the individual on the National Registry as a certified general appraiser even though the appraiser failed to meet the AQB's minimum continuing education requirements.

Since 1993, this appraiser/legislator has lacked the legal authority to perform appraisals in connection with federally related transactions. In 1993, the Board should not have renewed the appraiser's certified credential authorizing this appraiser to perform appraisals in federally related transactions. The Board also should have changed the status of the certified credential from "Active" to "Inactive" on the National Registry. And, when we amended the National Registry to report AQB compliance, the Board should have reported this person as non-AQB compliant. The Board failed to take any of these actions.

On August 14, 2006, the first day of the current field review, the Board's Executive Director wrote a letter to the appraiser/legislator. In that letter, he informed the appraiser that, because of staff error, he was refunding the National Registry fee and removing the appraiser's name from the National Registry. He also enclosed a new pocket card with an overstamp in red noting that the appraiser could not perform appraisals in federally related transactions. In response to an email request from the Board's attorney general representative, we changed the appraiser/legislator's National Registry status to "non-AQB Compliant" and "Inactive" on August 23, 2006.

Because this appraiser/legislator was not AQB compliant when the AQB Interpretation became effective in September 2005, the appraiser will be subject to the Interpretation should this appraiser decide to re-activate the certified credential from Inactive to Active status on the National Registry. The appraiser will have two options to regain Active status: (1) provide documentation that all of the continuing education requirements have been completed for each credential renewal beginning in 1993; or (2) apply and qualify as a "new" appraiser, submitting documentation of experience, education, and examination results to meet AQB criteria in effect at application.

To resolve this concern, the Board needs to:

1. Immediately recall the non-conforming legislator/appraiser's certification and issue a replacement certificate with a conspicuous notice on its face stating, "Not Eligible To Appraise Federally Related Transactions." Alternatively, the Board may choose to downgrade this person's certification to the licensed classification (which would have a "non-AQB Compliant" notation on the National Registry);
  2. Inform the legislator/appraiser in writing, within five working days from receipt of our field review letter that, to regain Active status on the National Registry and legal authority to perform appraisals in federally related transactions, this person will need to make up all continuing education hours that would have been needed from June 30, 1993, to the present time, including the most recent 7-hour National USPAP Update Course. Alternatively, this person could choose to apply for an initial certified general credential. In that case, this person would have to meet AQB criteria in effect at the time of application, including documentation of qualifying education and experience, and passage of the certified general examination; and
  3. In the future, ensure that all certified appraisers meet AQB continuing education criteria before renewing the credentials with authority to appraise in connection with Federally related transactions.
- **The Board approved online continuing education course offerings that do not conform to AQB criteria.**

AQB criteria require that the delivery method of education courses offered via distance education be approved by the International Distance Education Certification Center or by a college or university that offers courses via distance education methods. We identified several

continuing education courses on the State's approved education listing that did not contain evidence of the necessary approval. Our review of the files and discussions with staff confirmed that distance education delivery method approval, as required by AQB criteria, was not a part of the course evaluation process.

To resolve this concern, the Board needs to:

1. Within 30 days of receiving our field review letter, review all approved distance education courses for conformance to AQB criteria, specifically the provisions regarding delivery methodology approval;
  2. Promptly rescind approval for any courses that do not conform to AQB criteria; and
  3. Amend its procedures to ensure that the State's distance education course approval process conforms in all respects to AQB criteria.
- **Adoption of the 2008 AQB criteria changes.**

The Board voted to implement the 2008 AQB criteria using the "segmented" approach. To date, the Board has been unable to take the necessary steps to implement that action. On May 8, 2006, the Board placed an implementing statutory amendment before the State legislature, but the legislature adjourned without taking action. The Board plans to resubmit the amendment when the legislature convenes in January 2007.

Please keep ASC staff updated with regarding your progress in this area. We welcome the opportunity to comment on any proposed statutory and regulatory amendments.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time period 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.

Please contact us if you have any questions.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Philip Humphries, Executive Director