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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 20, 2005

Mr. Joseph Ibach, Chair
North Dakota Real Estate Appraiser
Qualifications and Ethics Board
P.O. Box 1336
Bismarck, ND 58502

Dear Mr. Ibach:

Thank you for your cooperation and your staff's assistance in the October 26-27, 2005 Appraisal Subcommittee ("ASC") review of North Dakota's real estate appraiser regulatory program ("Program"). As discussed below, the North Dakota Real Estate Appraiser Qualifications and Ethics Board ("Board") 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"). Further, we would like to raise a third point with your staff concerning the Program's transition from a three-year to a two-year continuing education cycle.

- **North Dakota issued certified appraiser credentials supported by examination results that were more than two years old, which is inconsistent with AQB criteria.**

In April 2000, the AQB issued an Interpretation to its criteria specifying that examination results were not valid for more than two years. This period is measured from examination date to the credential's issuance date. The AQB made this Interpretation effective July 1, 2000. Both the AQB and the ASC sent letters to all States in 2000 to make them aware of the Interpretation and the need for States to conform their operations to the interpretation. North Dakota attempted to address the examination validity Interpretation in its regulations.

Effective November 19, 2003, North Dakota's regulations were amended to add the new requirement that persons "successfully [complete] the appraisal board approved uniform state certification examination or its equivalent within two years of making the application." Using the application date, rather than certificate issuance date, to measure the end of the validity period for examination results, is inconsistent with the AQB Interpretation. Using the application date increases the chances that examination results will be stale at the time of certificate issuance.

While on site, ASC staff reviewed the records of all 13 appraisers certified between July 1, 2000, and October 19, 2005 (not including reciprocal certifications). We identified two persons who were issued certified credentials in 2003 based on outdated examination results. To resolve this concern, the Board needs to:

1. Require the two appraisers identified during the field review to retake the appropriate examination within 90 days from the Board's receipt of this letter;

2. Take the necessary steps to downgrade to the licensed level either of the two certified appraisers who fails to take or pass the appropriate examination within the 90-day period. Alternatively, the Board could recall existing certifications and overstamp them with wording similar to “Not eligible to appraise federally related transactions.” In this case, the appraiser’s record on the National Registry would be changed from “Active” to “Inactive;”
 3. Within 120 days from the Board’s receipt of this letter, notify the ASC in writing of the status of the two appraisers identified during the field review;
 4. Amend its regulations to conform to the AQB Interpretation to its certification criteria specifying that examination results were not valid for more than two years; and
 5. Refrain from issuing appraiser certifications that rely on outdated examination results.
- **North Dakota’s regulations regarding distance education do not conform to AQB criteria.**

On December 1, 2003, the AQB removed the American Council on Education (“ACE/Credit”) from its distance education approval process, effective April 1, 2004, and subsequently added the International Distance Education Certification Center (“IDECC”). The Board’s regulations still refer to ACE/Credit, along with IDECC. We found, however, that the Board, in practice, has been conforming to AQB criteria.

The Board needs to amend its regulations to remove ACE/Credit as an acceptable source for distance education delivery mechanism approval.

- **Appraiser Credential and Continuing Education Cycles**

Historically, North Dakota issued appraiser credentials with expiration dates one year from the date of issuance, and annually thereafter. Recently, the State amended its statute to make all credentials expire annually on December 31st. The Board was in the process of implementing the changes necessary to reflect this statutory change. North Dakota has a three-year continuing education cycle. The Board was considering amending its regulations to change the continuing education cycle to two years to dovetail with the AQB requirement that certified appraisers take the 7-hour National USPAP Update Course every two years. While on site, ASC staff discussed with the Board and staff the process of changing the continuing education cycle. The Board and staff agreed to work with ASC staff to ensure a smooth transition from the three-year to a two-year continuing education cycle. Please provide ASC staff with a copy of any draft rule or statute changes for our review and comment.

Unless otherwise noted above, please respond to our findings and recommendations within 60 days following the receipt of this letter. Until the expiration of that 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 further questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Jodie Campbell, Executive Secretary