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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 16, 2013

Mr. James Collins, Director
Division of Professional Regulation
Cannon Building, Suite 203
861 Silver Lake Blvd.
Dover, DE 19904

RE: Appraisal Subcommittee Staff Follow-Up Review

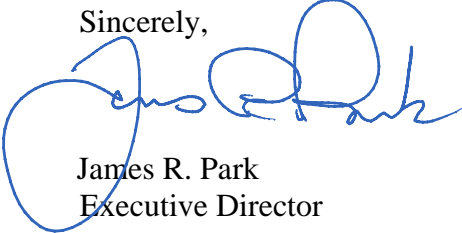
Dear Mr. Collins:

Thank you for your cooperation and your staff's assistance in the November 4, 2013 Appraisal Subcommittee (ASC) staff Follow-up Review. This was a Follow-up Review of the January 9-11, 2013 ASC Compliance Review of the Delaware appraiser regulatory program.

As detailed in the attached Follow-up Report, Delaware resolved three of the seven areas of non-compliance identified in the August 14, 2013 Compliance Review Report. ASC staff is requiring further State actions. ASC staff will monitor your progress in addressing the remaining concerns, and could require other actions if sufficient progress is not made.

This letter and the attached Follow-up Report are public record and available on the ASC website in accordance with the Freedom of Information Act. Please contact us if you have any questions.

Sincerely,



James R. Park
Executive Director

Attachment

cc: Ms. Amanda McAtee, Board Liasison
Ms. Kay Warren, Deputy Director
Ms. Georgianna Trietly, Board Chair

ASC Staff Follow-Up Report: 2013 Compliance Review

Delaware Appraiser Regulatory Program (Program)						
Council on Real Estate Appraisers (Council)/ Decision Making			Follow-Up Review Date: November 4, 2013		Follow-Up Report Issue Date: December 16, 2013	
Umbrella Agency: Department of State, Division of Professional Regulation (Division)			ASC Compliance Review Date: January 9-11, 2013		PM: V. Metcalf	
Requirement/Guidance	ASC Staff Assessment Compliance (YES/NO) Areas of Concern (AC)			Required/Recommended State Actions from the August 14, 2013 Compliance Review	Status as of November 4, 2013 Follow-Up	Further Required Actions/Comments
	Yes	No	AC			
Application Process:	X					
States must complete the continuing education affidavit audit within 60 business days from the date the renewal credential was issued. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10F 5(c).)				<p>Within 60 days of the date of the Report, Delaware must provide ASC staff a detailed account of the results of the Continuing Education (CE) audit which includes:</p> <p>(a) all credentials audited detailing any deficiencies;</p> <p>(b) the results of the "show cause" hearings and</p> <p>(c) verification that all non-compliant individuals have been placed on inactive status on the National Registry.</p>	<p>On October 21, 2013, the Division reported that it audited 139 (25%) of those who renewed during the 2011 biennial renewal cycle. Of the 139 audited, 12 (9%) were found noncompliant which resulted in:</p> <ul style="list-style-type: none"> • 1 revocation; • 2 suspensions with additional education; • 7 letters of reprimand; • 1 flagged for inclusion in the next audit; and • 1 hearing that is currently awaiting a final decision by the Council. <p>ASC staff reviewed all of the audited files. The actions taken appear to be consistent and equitable, and were reported on the National Registry when appropriate.</p>	<p>Further Required Actions: None</p> <p>Comments: The Delaware biennial renewal cycle ended on October 31, 2013. The Division began the audit process and completion is expected within 60 days. A second audit is planned in January 2014 to request CE certificates from late renewals. ASC staff will review the results during the next Compliance Review.</p>
Application Process continued:	X					
States must ensure that qualifying education documentation submitted with an application for appraiser credential upgrade is consistent with AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				<p>The Division must evaluate the application files and any additional information provided and determine whether the education claimed meets AQB Criteria. Within 60 days of the date of this Report, provide ASC staff with written findings of the evaluation. For applicants that do not meet AQB Criteria, submit evidence of action taken to revoke the credential and report the credential as "does not meet AQB Criteria" and "inactive" on the National Registry.</p>	<p>The Division received additional information which properly supported the college education claims of the 2 certified appraisers in question. In addition, Division staff noted that, in accordance with the new statutory amendment, Delaware will no longer be accepting education in lieu of a college degree after January 1, 2014.</p>	<p>Further Required Actions: None</p> <p>Comments: None</p>
Application Process continued:		X				
States must ensure that appraiser experience logs conform to AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; AQB Real Property Appraiser Qualification Criteria.)				<p>The Division must evaluate the application file and any additional information provided and determine whether the experience claimed meets AQB Criteria. Within 60 days of the date of this Report, provide ASC staff with written findings of the evaluation. If the experience claimed does not meet AQB Criteria, submit evidence of action taken to revoke the credential and report the credential as "does not meet AQB Criteria" and "inactive" on the National Registry.</p>	<p>On October 21, 2013, the Division reported that the appraiser was contacted and requested to produce a log of 3000 hours of USPAP compliant work for the Council's consideration at its November 19, 2013 meeting.</p>	<p>Further Required Actions: Once received, the Division must provide ASC staff with a copy of the experience log and the selected work product. The Council must determine if the experience claimed meets AQB Criteria and take the appropriate action regarding the credential by January 31, 2014.</p> <p>If the experience claimed does not meet AQB Criteria, or the applicant fails to provide the requested documentation, the Division must submit evidence of action taken to revoke the credential and report the credential as "does not meet AQB Criteria" and "inactive" on the National Registry.</p> <p>Comments: None</p>

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Application Process continued:		X				
States must use a reliable means of validating appraiser experience claims on all initial applications for appraiser credentialing. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10G.)				The Division must evaluate the application file and any additional information provided and determine whether the experience claimed meets AQB Criteria, is verifiable and compliant with USPAP. Within 60 days of the date of this Report, provide ASC staff with written findings of the evaluation. If the applicant does not meet AQB Criteria, submit evidence of action taken to revoke the credential and report the credential as "does not meet AQB Criteria" and "inactive" on the National Registry.	The Division and Council were unable to complete their evaluation of the experience claimed by the appraiser within the 60 days required in the Compliance Review Report because the applicant was given time to provide additional experience log information. Once the experience log is received, the Council will randomly select and review work product from the log. Based on those reviews, the Council will determine if the experience claimed sufficiently supports the credential held.	Further Required Actions: Once received, the Division must provide ASC staff with a copy of the experience log and the selected work product. The Council must make a determination and take the appropriate action regarding the credential by or before January 31, 2014. If the experience claimed does not meet AQB Criteria, or the applicant fails to provide the requested documentation, the Division must submit evidence of action taken to revoke the credential and report the credential as "does not meet AQB Criteria" and "inactive" on the National Registry. Comments: None
Education:	X					
States must ensure appraiser continuing education courses are consistent with AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				Within 60 days of the date of the Report, the Council must: (1) review the approved course in question to determine whether it met AQB Criteria; (2) remove the course or hours that do not meet AQB Criteria from approved status; and (3) notify ASC staff in writing of the Council's findings.	On October 21, 2013, Delaware reported that the Council withdrew its approval of the course in question. ASC staff verified that the course approval was withdrawn and the course provider notified.	Further Required Actions: None Comments: None
Enforcement:		X				
States should resolve all complaints filed against appraisers within one year, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				Delaware must submit quarterly complaint logs to ASC staff. Staff will analyze each log. If progress is not made, the ASC may place additional requirements upon the State.	Council provided its first quarterly complaint log in October 2013. There were 16 outstanding complaints of which 11 remained unresolved for more than 1 year. Of those 11 cases, 7 were in the AG's office and had special documented circumstances. The Division Director advised ASC staff that the investigative unit and Attorney General's (AG) office agreed to devote more resources to appraisal related cases.	Further Required Actions: The Division must continue to submit quarterly complaint logs. The next complaint log is due in February 2014. Comments: ASC will pay particular attention to this area during the next Compliance Review.

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Requirement/Guidance	ASC Staff Assessment			Required/Recommended State Actions from the August 14, 2013 Compliance Review	Status as of November 4, 2013 Follow-Up	Further Required Actions/Comments
	Compliance (YES/NO) Areas of Concern (AC)					
	Yes	No	AC			
Enforcement continued:			X			
States must appropriately document enforcement files and include rationale. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>The AG's Office should ensure that all enforcement actions are properly documented and include clear rationale for dismissals and other final actions taken as required by ASC Policy Statements.</p>	<p>ASC staff reviewed the complaint log and 17 complaint files during the Follow-up Review. ASC staff found that cases closed by the AG's office without action continued to be unsupported. The investigator and Board liaison provided the AG's office with information on USPAP violations and recommended disciplinary action, yet the cases were closed. The reasons for closure as stated in the file and on the complaint log stated "dismissed" or other terms such as "Prosecutorial Discretion" and "In the Interest of Justice" without providing the rationale or support for the decision made or the distinction between the terms used.</p> <p>Council meeting minutes revealed the Council's frustration with the lack of explanation from the AG's office. On October 21, 2013, the Division Director reported that he communicated this concern with the AG's Office and received an agreement to provide more explanation.</p> <p>ASC staff was told a letter from the Council to the State Solicitor (the head of the AG's Civil Division) had been drafted. The draft letter is said to encourage complaint dispositions within 1 year of receipt and stress the need to adequately and appropriately document enforcement files, specifically the rationale for dismissal.</p>	<p>Further Required Actions: The Council and Division must continue to work with the AG's office to ensure the enforcement files are appropriately documented and include rationale to support the resolution. Please provide a copy of the final letter sent to the State Solicitor to ASC staff.</p> <p>To strengthen the Program, the investigators and Council members should work together with prosecuting attorneys to determine how the descriptions of identified violations may be improved to support further consideration and possible action.</p> <p>Comments: ASC staff will pay particular attention to this area during the next Compliance Review.</p>