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Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 14, 2006

Anthony F. Majewski, Acting Director
Office of Real Estate Appraisers
1102 Q Street, Suite 4100
Sacramento, CA 95814

Dear Mr. Majewski:

Thank you for your July 25, 2006 letter responding to our June 30th letter, our most recent correspondence resulting from our January 2006 field review of California's real estate appraiser regulatory program and the Office of Real Estate Appraisers ("OREA"). Your letter provided an update regarding one of the concerns identified during our field review.

- **OREA approved distance education courses that fail to conform to Appraiser Qualifications Board ("AQB") certification criteria.**

In your April 28th initial response to our March 15th field review letter, you stated that you had completed a review of all approved distance education courses and identified 13 courses that did not have evidence of International Distance Education Certification Center ("IDECC") accreditation. These 13 courses included both qualifying and continuing education offerings. Because of the possibility that persons who were qualified for initial certification or renewed their certifications might have been granted credit for one or more of these 13 non-IDECC approved courses, OREA needed to take steps to ensure that all certified appraisers in California have met the AQB's initial and continuing education requirements for certification. Our June 30th letter set forth the necessary steps to address this concern.

Initial Appraiser Certifications

According to your July 24th letter, OREA reviewed all initial certifications granted from April 1, 2004, through July 1, 2005, and determined that OREA had not granted any initial certifications based on any of the 13 courses. Please retain the documentation supporting this audit for our review during our next California field contact.

Renewed Appraiser Certifications

Also according to your July 24th letter, OREA determined that it was unlikely that any certified appraiser credentials had been renewed during the specified 2004-2005 time period based on 12 of the 13 problematic courses. OREA reached this conclusion based on the following: documentation of IDECC accreditation had been provided for two of the courses; three of the courses had not been "marketed" during the time period; and seven of the courses are marketed "primarily" to real estate licensees rather than appraisers. The remaining course is marketed as continuing education to appraisers. To validate this conclusion, OREA reviewed a sample of renewed certifications and found that while some certification renewals had been supported by this course, none of the other 12 courses were claimed in renewals contained in the

sample review. After additional validation work, OREA reviewed 354 of the 4,445 certifications renewed during the target time period. This sample review revealed that 11% of the sample renewals relied on the non-conforming education course.

While we find the results of your sampling process interesting, we do not find them acceptable. Our June 30th letter directed OREA to “identify **all** persons initially certified or issued renewed certifications...” [emphasis added]. By using a sampling approach, OREA identified only a portion of the appraisers holding certifications that fail to conform to AQB Criteria and Title XI.

In your letter, you stated that OREA believes that performing the review on a sample basis is appropriate to identify the scope of the issue and is consistent with ASC policy regarding the acceptance of affidavits and other affirmations. In fact, using a sampling process in this context is not consistent with ASC policy. The affidavit procedures set forth in ASC Policy Statement 10.F. are based on the presumption that the appraisers have complied with AQB criteria and Title XI. The affidavit audit process is designed to determine whether there is a reasonable basis to accept or reject the affirmations made by the appraisers.

In the California distance education situation, there is no presumption of compliance. OREA renewed certified appraiser credentials based on education that was known, or should have been known, not to conform to AQB criteria and Title XI. As a result, sampling is not necessary to determine whether non-compliance exists. We know that non-compliance exists; the question is which credentials were renewed while failing to conform to AQB criteria and Title XI.

Notwithstanding the above discussion, should we agree to accept OREA’s sample audit approach, the 11% “failure” rate still would require audit of the total population. An 11% failure rate exceeds the tolerance range we are willing to accept.

You contend that the course in question “is equivalent to an IDECC approved course and should be considered so until the provider obtains specific IDECC approval for the remainder of the course.” You further state that “with the exception of the addition of the AQB approved 7-Hour National USPAP Update component, is the same course that has been approved by OREA and ACE/Credit since 1997.” The fact that the course has been approved by ACE/Credit since 1997 is not a compelling argument. The AQB withdrew ACE/Credit’s distance education approval authority because ACE was unwilling or unable to support that its validation process met AQB criteria provisions.

Lastly, you contend that “since the principles and USPAP components of the course are delivered in the same manner, we believe that had the entire course, as currently designed and delivered, been submitted for IDECC approval on or after April 1, 2004, it would have been approved.” Unfortunately, there is no way to make that determination reliably given that the course was not submitted for IDECC review in 2004 or 2005.

Necessary Actions

To resolve this issue, OREA needs to:

1. Within 30 days from the date of this letter, determine whether each appraiser whose certified credential was renewed from April 1, 2004, through July 1, 2005, relied on any education course that did not have IDECC approval at the time the course was taken;
2. Within 60 days from the date of this letter, for each appraiser who did not have sufficient continuing education to support renewal of his/her credential, advise the appraiser in writing of the number of hours of unacceptable continuing education and that he/she must take the necessary education within 60 days to maintain his/her certified appraiser credential. NOTE: This “make up” education cannot be used to meet the requirements for another continuing education cycle;
3. Within 10 days after the close of the 60-day period to obtain the necessary education, determine which certified appraisers have not earned the necessary hours of education and either promptly downgrade the appraisers to a non-certified classification or recall their certifications and reissue them overstamped with the phrase, “Not Eligible to Appraise Federally Related Transactions.” Appraisers choosing overstamped credentials will be removed from the National Registry; and
4. Within 20 days after the close of the 60-day period to obtain the necessary education, provide the ASC a spreadsheet identifying:
 - a. Each of the 4,445 appraisers who renewed credentials during the target time period;
 - b. The results of each appraiser’s continuing education audit, including the number of unacceptable hours of education, if any;
 - c. Whether the appraiser has taken any necessary “make up” education; and
 - d. What disciplinary action, if any, is being taken for each non-compliant appraiser.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director