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Appraisal Subcommittee

Federal Financial Institutions Examination Council

October 17, 2003

Mr. James A. Holmes, Chair
Colorado Board of Real Estate Appraisers
1900 Grant Street, Suite 600
Denver, CO 80203

Dear Mr. Holmes:

Thank you for your cooperation and your staff's assistance in the September 10-12, 2003 Appraisal Subcommittee ("ASC") review of Colorado's real estate appraiser regulatory program ("Program"). We also appreciate the assistance of Division Director Debbie Campagnola and Deputy Director Jeffrey Foster. Based on our review, you need to address deficiencies in the enforcement and education programs to bring your Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

- **Colorado's complaint investigation and resolution program needs substantial improvement.**

- a) **Many complaints were not investigated and resolved in a timely manner.**

ASC Policy Statement 10 specifies that States should investigate and resolve complaints within one year of their receipt. Colorado has a large number of open complaint cases, many of which are more than a year old. Between May 2000 and August 2003, the Division of Real Estate ("Division") opened 495 cases. Of these 495 cases, 186 remained open. Of the 186, 100 have been open for longer than one year. Additionally, at the beginning of our review, the State had eight open complaints that had been filed before May 2000, the oldest of which dated back to May 1997. The Board closed four of these cases (including the 1997 case) during the meeting our staff attended because the credentials of the involved appraisers had expired.

We understand that you share our concerns in this area and that personnel issues have impacted enforcement activities during the last 12-18 months. We note the recent replacement of your staff investigator and were pleased with Director Campagnola's announcement at your September Board meeting that she would be adding another investigator to focus on appraiser complaints as quickly as possible. Sufficient investigative resources are critical to the State's ability to investigate and resolve complaints in a timely manner. Please provide us with written confirmation when the additional investigator is appointed. To enable us to monitor your progress in reducing your investigation backlog, please submit to us quarterly complaint case logs that identify individual case status.

- b) **Division staff does not accurately track the status of each complaint.**

We identified instances in which sanctioned appraisers had not met the education and other conditions of consent agreements. There did not appear to be any established procedures for

confirming that a sanctioned appraiser completed the remedial action set forth in the consent agreement.

We understand a new computer system will be implemented in February 2004 that may assist you in more accurately tracking such information. Until that improved system is fully operational, you need to devise an interim process to accurately track consent agreement conformance by sanctioned appraisers. The Board then should take appropriate action against appraisers who fail to complete the terms of the consent agreements.

c) The Advanced Disposition Process (“ADP”) should be improved.

We acknowledge the Board’s and staff’s efforts to reduce the outstanding case load through an expedited complaint handling procedure known as ADP. ADP is intended as a screening process to eliminate more frivolous cases by quickly dismissing them or by identifying those cases where an appraiser should receive an admonishment letter suggesting additional education courses in specific areas.

The ADP, however, needs improvement. Documentation does not exist to support how or why you selected specific cases for rapid disposition. Thus far, most complaints closed under ADP were open for between one to two years and were referred for investigation at the time the complaints were filed. It is not clear why the complaints were later deemed unworthy of investigation. Moreover, we could not discern a clear distinction between dismissed cases versus cases in which the staff recommended a letter of admonishment.

While we share the staff and Board’s concern over the number of outstanding complaints, actions taken under ADP need to be documented, equitable, and consistent. Therefore, the Division and Board need to create written procedures for selecting and evaluating cases processed via ADP.

- **Colorado has not developed a tracking system to ensure that renewing appraisers meet new Appraiser Qualifications Board (“AQB”) Criteria.**

Colorado has a three-year credentialing cycle. Effective January 1, 2003, AQB criteria requires certified appraisers to take the 7-hour National USPAP Update Course every two calendar years. You need to develop a tracking process to ensure that appraisers meet this continuing education requirement by December 31, 2005, and to demonstrate biannual completion of the course in the future.

- **Colorado’s process for enforcing compliance with the AQB’s continuing education criteria is not acceptable.**

To expedite the credential renewal process, Colorado allows appraisers to submit a signed affidavit certifying that they have met the AQB’s continuing education requirements, instead of submitting documentation regarding the courses taken. Each year, Division staff randomly selects and audits 25% of the renewing population from geographically diverse areas and appraisers on the complaint log. Each year, staff identifies some appraisers who falsified their certificates. The Division gives these appraisers up to 180 days to complete the necessary education.

AQB criteria require certified appraisers to obtain the required hours of continuing education for the period preceding credential renewal. Colorado law requires licensed appraisers to do the same. Generally, States have taken one of two approaches to enforcing this criterion. Most States require the renewing appraiser to submit documentation supporting his/her continuing education with the credential renewal application. Some States allow appraisers to submit affidavits attesting to the fact that the appraisers have obtained the necessary continuing education. These States, after credential renewal, audit a percentage of renewing appraisers.

States using the affidavit approach, like Colorado, must suspend an appraiser's credential immediately if the audit determines that the appraiser did not have the necessary continuing education and, therefore, falsified his/her application. Allowing these appraisers to obtain the necessary continuing education within the next six months is not adequate. You need to establish and implement procedures under which appraisers failing the continuing education affidavit audit are removed from federally related transaction eligibility until the necessary education is obtained.

- **The Board approved several qualifying education courses that do not appear appropriate in content.**

We are pleased that, in response to our previous field review, Colorado established a course approval process. Providers now must submit courses for review and approval. We, however, question some approved qualifying education courses.

Qualifying education courses should provide instruction on basic appraisal principles and practices and represent a progression in which an appraiser's knowledge is increased. We reviewed a list that contained approximately 530 Board-approved course offerings. Of these 530 courses, we reviewed 20 and considered 15 either too highly specialized or inconsistent with the credential level and, therefore, inappropriate for qualifying education. Further, based on course titles, we question the appropriateness of many other courses.

Division staff currently is working with ASC staff to identify all questionable course offerings. Once identified, the Board needs to determine whether each offering meets the AQB minimum education criteria for qualifying education. The approval of the courses not meeting AQB requirements needs to be rescinded immediately.

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.

If you have any questions, please contact us.

Sincerely,

Steven D. Fritts
Chairman

cc: Stewart Leach, Program Administrator