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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 17, 2007

Ms. Erin Toll, Director
Department of Regulatory Agencies, Division of Real Estate
1560 Broadway, Suite 925
Denver, CO 80202

Dear Ms. Toll:

Thank you for your cooperation and your staff's assistance in the August 14-15, 2007 Appraisal Subcommittee ("ASC") follow-up review of Colorado's appraiser regulatory program ("Program"). In our January 5, 2007 field review letter, we notified the Colorado Real Estate Appraisers Board ("Board") and the Department of Regulatory Agencies, Division of Real Estate ("Division") that Colorado's Program was not in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). We identified seven areas of concern that needed prompt corrective action. During our follow-up review, we focused on these seven concerns.

As discussed in more detail below, Colorado resolved three of our concerns and made some progress towards addressing the remaining four concerns. This letter sets forth the ASC's findings and the actions that the State needs to take to bring the Program into substantial compliance with Title XI.

Previous Findings, Current Status, and Necessary Actions

- **Colorado's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10.**

Previous Finding: The ASC found that Colorado's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 because many complaints were not investigated and resolved in a timely manner. We further noted that Colorado needed to improve documentation and tracking of complaint cases. In its January 5, 2007 letter following the October 2006 field review, the ASC set forth the corrective action steps that the Board and Division needed to complete.

Current Status: During the 10 months since our October 2006 field review, the Division has taken several steps to address our concerns. While those actions are promising and we noted progress since our 2006 field review, much work remains to bring this aspect of the Program into compliance. The chart below summarizes the complaint-related statistics:

Field Review Cycle	Complaints Received	Complaints outstanding	Complaints outstanding more than 1 year
Sep 2003	495 (~150/year)	186	100 (54%)
Oct 2006	674 (~220/year)	244	83 (34%)
Aug 2007	196 (~235/year)	246	99 (40%)

Based on our follow-up review, the Division maintained appropriate documentation supporting the decision-making process in accordance with ASC Policy Statement 10 E. While on-site, ASC staff reviewed 32 appraisal-related complaint files and found all to be well documented.

Necessary Action: The Board and Division need to continue to focus the necessary resources in this area to ensure that all complaints are investigated and resolved in a timely manner, as required by Title XI and ASC Policy Statement 10 E.

When we return for our next field review in 2008, we expect to find a significant reduction in the number of aged complaint cases and that newly received complaints are being investigated and resolved on a timely basis. Should we not see substantial improvement at that time, ASC staff will recommend that the ASC initiate a non-recognition proceeding under § 1118(b) of Title XI, 12 U.S.C. 3347(b) for Colorado's longstanding failure to investigate and resolve complaints in a timely manner.

Finally, please continue providing an electronic copy of the complaint log quarterly to ASC Policy Managers Jenny Tidwell at jenny@asc.gov and Kristi Klamet at kristi@asc.gov.

- **The Division and Board did not process temporary practice applications in accordance with Title XI and ASC Policy Statement 5.**

Previous Finding: The ASC found that Colorado failed to comply in two ways with the temporary practice provisions of Title XI and ASC Policy Statement 5. First, the State did not always process completed temporary practice applications within five business days of receipt of completed applications. Second, when temporary practice permits were recorded on Colorado's Web site, they were assigned an expiration date of 90 days from the date of issuance. Title XI and ASC Policy Statement 5 require temporary practice permits to be awarded on an assignment basis and for a period of at least six months, with one easy extension. To address this concern, the Board and Division needed to complete the curative action steps set forth in our field review letter.

Current Status: During the 10 months since our October 2006 field review, Colorado made progress regarding this concern. First, we found that Colorado processed 105 temporary practice applications since our previous field review. Eighty-six of those applications (82%) were processed within five business days of receipt. Nevertheless, Title XI and ASC Policy Statement 5 states that *all* completed applications must be processed within five business days of receipt. Division staff stated that they were unaware that the Division was not processing all temporary practice applications on a timely basis and promised to comply fully with ASC Policy Statement 5's five business day requirement.

Second, the Division changed its Web site to reflect that temporary practice permits were valid for six months and could be renewed for another six months upon request.

Necessary Action: Although progress has been made, Colorado's temporary practice permit program still is not compliant with Title XI and ASC Policy Statement 5. The Division needs to ensure that all completed applications are processed within five business days of receipt.

- **Colorado’s practices allowed tax assessors to be granted appraiser credentials without documented conformance to Appraiser Qualifications Board (“AQB”) experience criteria.**

Previous Finding: The ASC determined that Colorado granted credentials to applicants relying on mass appraisal experience without documented conformance to AQB criteria. We further noted that Colorado failed to comply with our 1993 Policy Statement regarding the need to validate experience claimed by applicants (paragraph 10 B), and the 2005 Policy Statement amendment that prohibited States from accepting experience-related affidavits (paragraphs 10 B and 10 F). Under AQB certification criteria and these Policy Statements, States had to make a reasonable effort to determine whether applicants performed their mass appraisal work in compliance with USPAP Standard 6. The Board, since the inception of the Program, failed to review mass appraisal experience claims to determine whether that experience conformed to USPAP Standard Rule 6. To resolve this concern, the ASC required the Board and Division to take a series of corrective action steps.

Current Status: Colorado stopped awarding certified credentials to applicants relying on mass appraisal experience, unless the applicant provides an experience log that conforms fully to the AQB’s experience requirements for certification. The Board and Division also review work samples selected from experience logs to determine whether applicants are competent to perform USPAP-compliant appraisals.

The Division retained appraiser application records dating back to mid-1997. The Division reviewed these files for the period mid-1997 to October 2006, and identified 135 licensed or certified appraisers who relied in whole or in part on *ad valorem* tax appraisal work when they were initially credentialed.

Regarding appraisers who were licensed or certified between 1991 and 1997, Colorado, through its vendor PSI, mailed, on June 21st, 1,458 letters to all appraisers who were licensed or certified during that time period, requiring them to attest to whether they had obtained their license or certification using mass appraisal experience. Those letters, however, were mailed with PSI’s return address and postmark stamp. As a result, recipients failed to understand that the letters were from the Board and Division and the response rate was very poor. The vendor had to send a second letter to the appraisers, this time identifying the Division as the sender. That letter was sent on July 26th and requested that appraisers return the signed affidavit no later than August 15, 2007. As of August 15, 2007, the Division received 1,297 responses, with 222 (17%) indicating that they had obtained their credentials using of mass appraisal experience. Ninety-nine appraisers failed to respond to the Division’s letter, 54 letters were returned as undeliverable, seven responded without indicating what type of experience they used, and one credential holder had died.

Necessary Action: Once the universe of affected active appraisers has been identified, the Division and Board need to complete the balance of the curative steps listed in our field review letter. The Board and Division also must conform to new ASC Policy Statement 10 G, which reaffirmed existing requirements regarding how States need to validate applicants’ experience claims.

- **Colorado's audits of continuing education affidavits indicated an unacceptably high failure rate.**

Previous Finding: The ASC found that Colorado's 2006 audit of continuing education affidavits revealed that 12% of audited appraisers were unable to support the claimed continuing education. ASC Policy Statement 10 F provides that, if a State determines that more than 10% of audited appraisers fail to meet the AQB criteria, the State must take remedial action to address the apparent weakness in its affidavit process. In our January 5, 2007 field review letter, the ASC directed the Division and the Board to take specific curative action steps.

Current Status: Once again, Colorado has begun but not completed the corrective actions specified in our field review letter. Additionally, the Division had conducted a continuing education audit of appraisers who renewed their credentials on December 31, 2006. The Division audited 130 (15%) of the renewing population of certified appraisers. The final results of that audit are pending. Division staff informed us that, based on the preliminary results of this audit, the failure rate likely will exceed 10% and the Division will have to audit all renewing appraisers.

Colorado has undertaken several actions to improve its continuing education compliance rate. We trust that those actions will prove effective. Should Colorado's continuing education audit failure rate continue to exceed 10%, Colorado will lose the option to accept continuing education affidavits.

Necessary Action: The Division needs to complete the curative steps set forth in our January 5, 2007 field review letter and provide to the ASC final statistics of the 2005 and 2006 continuing education audits no later than September 10, 2007.

- **Colorado failed to retain adequate documentation to support the decision-making process for education course approvals or disapprovals.**

Previous Finding: The ASC found that the Division did not maintain adequate documentation to support the decision-making process regarding the approval or disapproval of appraiser-related education courses.

In its January 5, 2007 field review letter, the ASC directed the Board to maintain copies of all documents supporting Board decisions to approve or disapprove educational courses at least until the next ASC field review of the Program.

Current Status: The Division maintained the necessary documentation supporting the decision-making process regarding education courses. While on-site, we reviewed 10 appraisal education course application files and found all to be well documented.

Necessary Action: None.

- **Colorado failed to retain adequate documentation to substantiate that appraiser credentials were issued in compliance with AQB criteria.**

Previous Finding: The ASC determined that application files were well documented regarding qualifying education and examination results, but that many files failed to have supporting documentation for qualifying experience due to the Division's practice of destroying experience logs 90 days after taking action on an application.

In the ASC's field review letter, the ASC directed the Division to maintain experience logs and any other documentation supporting experience claims until the ASC has conducted its next scheduled on-site field review and in compliance with State record retention laws.

Current Status: The Division no longer destroys experience logs 90 days after the Division and the Board acts on related appraiser applications. Experience logs and other documentation supporting experience claims also were retained for our review during the follow-up field review of their Program. While on-site, we reviewed 27 initial application files and found all to be well documented.

Necessary Action: None.

- **Colorado approved a distance education course that failed to conform to AQB criteria.**

Previous Finding: In our 2006 field review, we found that the Board approved a distance education course that appeared inconsistent with AQB distance education criteria. Specifically, the distance education course failed to have its delivery methodology approved by one of the approval sources specified in AQB criteria. To resolve this concern, the Board and Division needed to take certain curative actions.

Current Status: The Division identified 16 licensed or certified appraisers who relied on this course to renew their credentials. They informed these appraisers, by letter, to provide by March 16, 2007, proof of having met the continuing education requirements without counting this course or to provide evidence of completing an alternative acceptable two-hour continuing education course.

All 16 appraisers advised the Division that they met the continuing education requirements. Thirteen appraisers took a substitute continuing education course, and three appraisers showed that they earned sufficient continuing education hours without counting the non-compliant course.

Finally, Colorado sent a letter to two appraisers who had taken the noncompliant course but had not yet renewed their credentials, informing them that the course would not be accepted for continuing education purposes at the time of renewal.

Necessary Action: None.

If you wish to respond to our comments, please do so within 60 days from the date of this letter. 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 follow-up 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,

Ben Henson
Executive Director

cc: Keren Prior, Chair, Colorado Board of Real Estate Appraisers
Mike Beery, Appraiser Program Administrator, Colorado Board of Real Estate Appraisers