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Appraisal Subcommittee

Federal Financial Institutions Examination Council

March 14, 2007

Mr. Lowell K. Griffin, Chairperson
Indiana Real Estate Appraiser Licensure
and Certification Board
Indiana Professional Licensing Agency
402 W. Washington, Room W072
Indianapolis, IN 46204

Dear Mr. Griffin:

Thank you for the cooperation and assistance of the Indiana Real Estate Appraiser Licensure and Certification Board (“Board”) and the Indiana Professional Licensing Agency (“IPLA”) in the December 12-14, 2006 Appraisal Subcommittee (“ASC”) review of Indiana’s real estate appraiser regulatory program (“Program”). Based on our review, Indiana needs to address the following three 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”) and ASC Policy Statement 10.

- **Indiana accepted affidavits to support continuing education without a reliable means of validation, inconsistent with ASC Policy Statement 10 F.**

This area of concern was addressed in our July 18, 2005 field review letter. Our concern from that review was not completely resolved. Below, in the section titled “2004 continuing education audit,” we address the concern remaining from the 2005 field review. We address the additional concern from the current field review in the section titled “2006 continuing education audit.”

2004 continuing education audit:

Indiana renewed appraiser credentials based on appraisers’ sworn affirmations (*i.e.*, affidavits) that they had met the State’s continuing education requirements. Indiana’s appraisers renew their credentials in even numbered years on January 1st. During our 2005 field review, ASC staff discovered that the Board failed to conduct a continuing education audit following the January 1, 2004 renewal. In our July 18, 2005 field review letter, the ASC directed the Board to audit the continuing education claims of at least 10 percent of the appraisers who renewed their credentials on or after January 1, 2004. In response to our letter, Indiana audited the continuing education claims of 139 certified appraisers and 95 licensed appraisers. Of the 139 certified appraisers, two (1%) failed to provide proof of compliance with continuing education requirements. Those two cases were forwarded to the Attorney General (“AG”) office, and charges were filed against both appraisers. One appraiser surrendered his certification; the other appraiser’s certification was suspended for an indefinite period.

Of the 95 licensed appraisers, seven (7%) failed to provide proof of compliance with continuing education requirements. Only three of these seven cases were forwarded to the AG's office. Appropriate disciplinary action was taken against each of the three appraisers.

We questioned IPLA staff regarding the four licensed appraisers' cases that were not forwarded to the AG's office. IPLA staff responded that a staff member who no longer was employed by IPLA had communicated with these four licensees and possibly obtained documentation of their continuing education. That documentation, however, could not be located.

2006 continuing education audit:

In February 2006, Indiana audited 10 percent of the certified appraisers who renewed their credentials on or after January 1, 2006. That audit included 131 certified appraisers. Prior to our field review, Indiana reported to ASC staff that all audited appraisers provided proof of compliance with continuing education requirements. While on-site, ASC staff reviewed all 131 files and determined that 11 appraisers failed to document that they had met the AQB certification criteria's continuing education requirements. IPLA staff immediately contacted these appraisers. Six appraisers provided documentation to substantiate the required continuing education. On December 15, 2006, IPLA mailed certified letters to the other five appraisers, giving them until January 15, 2007, to submit their proof of continuing education or their file would be forwarded to the AG's office for the filing of formal charges.

Indiana did not audit any licensed appraisers who renewed their credentials on or after January 1, 2006. Although States are not required to audit affidavits for licensed appraisers, unless the State conducts such an audit, the ASC is unable to determine the AQB compliance of these appraisers. The Board and/or IPLA needs to conduct an appropriate affidavit validation, or the ASC will need to reflect on the National Registry that AQB compliance for Indiana licensed appraisers is "Unknown."

To address this concern, the Board and/or IPLA needs to:

In connection with the 2004 continuing education audit:

1. Be aware that the ASC has changed the "AQB Compliant" field in the National Registry to "No" for each of the four licensed appraisers discussed above; and
2. Ensure that these appraisers are identified as "No" in the "AQB Compliant" data field in the State's National Registry data submissions, until such time as the appraisers become AQB compliant.

In connection with the 2006 continuing education audit, the Board and IPLA need to:

1. Conduct an audit by April 30, 2007, of at least 10% of the licensed appraisers who renewed credentials on or after January 1, 2006, and take appropriate action based on

the audit results. If Indiana fails to conduct the audit within the specified time period, the ASC will change the National Registry “AQB Compliant” status of all Indiana licensed appraisers to “Unknown;”

2. Report its determinations regarding Step 1 to ASC staff not later than May 15, 2007;

3. Report to ASC staff its determinations regarding the five certified appraisers referred to the AG office in connection with the 2006 audit. If any of the certified appraisers failed to document conformance to AQB criteria, ensure that the State’s National Registry data submissions reflect “Inactive” in the Status field and “No” in the AQB Compliant field; R

4. If any appraiser fails to document compliance with AQB criteria, determine whether the appraiser’s failure resulted from a good faith mistake on the appraiser’s part, or whether the appraiser knowingly misrepresented his or her eligibility for renewal. Intentional falsification of a government document (*e.g.*, appraiser credential renewal application) is a serious matter which calls into question the individual’s ethics, a core requirement for impartial appraisal practice. Should any instances of intentional falsification be determined, we expect the State to take equally serious disciplinary action; and I

5. Ensure that Indiana complies with ASC Policy Statement 10 F regarding the timing of future continuing education affidavit audits and the resulting actions.

- **Indiana approved continuing education courses that appeared inconsistent with AQB criteria and failed to document the continuing education course approval process.**

While on-site, ASC staff reviewed 131 continuing education audit files. Twelve of those files contained continuing education course certificates that appeared inconsistent with AQB criteria. Those courses apparently were used to meet the required continuing education for credential renewal. According to AQB criteria, the purpose of continuing education is, “to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge, and competency in real estate appraising.” These 12 courses were:

1. National Association of REALTORS ® Code of Ethics;
2. Premier School of Real Estate Code of Ethics and Professional Standards;
3. Metropolitan Indianapolis Board of REALTORS ® Code of Ethics;
4. Fort Wayne Area Association of REALTORS ® Code of Ethics;
5. License and Escrow Law;
6. Agency Law;
7. Multi-Generational Marketing;
8. Innovative Marketing;
9. Click & Close: Working with the e-buyer;

10. Listing Contract & Related Documents;
11. Settlement Procedures; and
12. Effective Negotiations.

IPLA staff was unable to locate and/or provide any documentation for these twelve courses or the decision-making process supporting approval of the courses. IPLA staff stated that these courses were likely approved several years ago, and that the documentation relating to these courses was not maintained.

To address this concern, the Board and/or IPLA need to:

1. Obtain appropriate documentation for each of the 12 courses identified above;
2. Review the documentation to determine whether each course, or portion of a course, conforms to AQB continuing education criteria;
3. By April 30, 2007, submit to ASC staff a listing of the 12 courses and the State's determination regarding AQB conformance for each course;
4. Rescind approval for any course that fails to conform to AQB criteria;
5. Refrain from approving such courses in the future; and
6. Maintain copies of all documents supporting Board decisions to approve or disapprove educational courses.

If the Board rescinds approval of any of the courses due to a determination that the course fails to meet AQB criteria, direct the Board and/or IPLA to:

1. By May 31, 2007, identify all persons issued renewed credentials on or after January 1, 2006, who were given credit for a disallowed course;
2. By June 15, 2007, review the file for each appraiser identified in step one and determine whether the appraiser had sufficient continuing education, other than the disallowed courses, to support renewal of his or her credential;
3. By June 30, 2007, send a letter to each appraiser who did not have sufficient continuing education on file that they need to provide documentation of acceptable continuing education or obtain the necessary continuing education within 30 days. (Note that continuing education obtained for this purpose cannot be used to support renewal in 2008;) and
4. By July 31, 2007, take appropriate disciplinary actions against any appraiser who has failed to document conformance to AQB criteria:

- a. For a certified appraiser, promptly downgrade the appraiser to a non-certified credential and report the credential as non-AQB compliant in National Registry data submissions; or
 - b. Recall the certified appraiser credential and reissue it overstamped with the phrase, "Not Eligible to Appraise Federally Related Transactions." Appraisers choosing overstamped credentials will be removed from the National Registry; and
 - c. For a licensed appraiser, report the credential as non-AQB compliant in National Registry data submissions.
- **Board regulations regarding appraiser reinstatement from Inactive status do not conform to AQB criteria.**

Board regulations currently allow an appraiser to place his or her credential into Inactive status for an unlimited amount of time, provided the appraiser pays specified annual fees. The regulations require that, to reactivate a license or certification from Inactive to Active status, the appraiser must take 28 hours of continuing education, including the most recent edition of the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive credential, the credential holder must complete all continuing education that would have been required had he or she not been Inactive, including the most recent edition of the 7-hour National USPAP Update Course.

IPLA staff informed ASC staff that six certified appraisers had been reinstated since September 2005, and that each appraiser had submitted all required hours of continuing education, including completion of the most recent 7-hour National USPAP Update Course, in compliance with the AQB Interpretation.

The Board needs to amend its regulations to comply with the AQB criteria Interpretation and keep us informed about that effort.

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: Nicholas Rhoad, Board Director
Wade Lowhorn, Deputy Director
Sheila O'Bryan McGrath, Director and Chief Counsel