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Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 18, 2006

Mr. Glenn Wilson
Commissioner, Department of Commerce
85 – 7th Place East, Suite 600
St Paul, MN 55101-3165

Dear Mr. Wilson:

Thank you for your staff's cooperation and assistance in the March 1-2, 2006, Appraisal Subcommittee ("ASC") review of Minnesota's appraiser regulatory program ("Program"). Based on our review, Minnesota needs to address two concerns to bring its Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). Because of Minnesota's failure to fully resolve these concerns, which were identified during our 2004 field review, ASC staff will return to Minnesota in the later part of 2006 for a follow-up review to assess the State's progress on resolving these concerns. We anticipate that the continuing education affidavits audits will be completed by that time and that we will see continued improvements in your complaint investigation and resolution program.

- **Minnesota does not have a reliable means of validating continuing education claims of appraisers applying to renew certified credentials.**

Minnesota appraiser credentials are valid for two years. The credentials of approximately one half of the appraiser population expire on August 31st each year. Minnesota allows appraisers applying to renew their credentials to submit affidavits attesting to the required hours of continuing education. However, Minnesota does not have a reliable method of validating the continuing education claims of renewing certified appraisers as required by ASC Policy Statement 10. This concern has been raised in prior ASC reviews. The historical details regarding the 2003, 2004, and 2005 continuing education audits are provided in an attachment to this letter.

To address this concern, the Department needs to:

1. Complete the 2003, 2004, and 2005 continuing education audits by May 31, 2006;
and
 2. Provide ASC staff with updated spreadsheets of the 2003, 2004, and 2005 continuing education audits by July 1, 2006.
- **Minnesota does not have an effective Complaint Investigation and Resolution Program.**

ASC Policy Statement 10 provides that, absent special circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date. Since our 2004 field review, the Department has taken several steps to improve this program. We recognize the Department's efforts in this area. The Department needs to continue its efforts to investigate and resolve complaints in a timely manner and to reduce the number of

complaints outstanding for more than one year. We hope to see that your continued efforts have further reduced the complaint case backlog when ASC staff return later this year.

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,

Virginia M. Gibbs
Acting Chairman

Attachment

cc: Bonnie Polta, Market Assurance Supervisor
James Pearson, Acting Licensing Director

Attachment

2003 and 2004 Credential Renewal Cycles

During our August 2004 field review, ASC staff found that the Department lacked a reliable means of validating the continuing education claims of renewing certified appraisers. In our October 2004 field review letter, we set forth a corrective action plan to be implemented by the Department.

When ASC staff returned for our June 2005 follow-up review, we found that the Department had conducted a random audit of appraisers who renewed in 2003 and 2004. The Department selected 436 of approximately 2,200 appraisers for audit. Sixty-six of these appraisers failed the audit, representing a 15.1% failure rate. While the Department took disciplinary action in several cases, disciplinary action was not taken in all cases.

In our August 12, 2005 follow-up review letter, we notified Minnesota that the Department needed to complete the following curative actions:

1. Perform a complete continuing education audit of all certifications issued during the 2003 and 2004 renewal cycles and complete the following actions:
 - a. By October 31, 2005, review the continuing education claims of all remaining certified appraisers whose credentials were renewed in 2003 and 2004 to determine whether their claims met the AQB's certification criteria;
 - b. From the appraisers audited in the previous sample audit **and** those audited from step (a), identify all appraisers who did not have the necessary education to support the renewal of their certifications;
 - c. For each appraiser identified in step (b), determine whether the appraiser appeared to have fraudulently misrepresented his or her continuing education claims;
 - d. Notify those appraisers who failed the audit but did not commit a fraudulent misrepresentation that they have 60 days to take and submit the necessary continuing education;
 - e. For those appraisers identified in step (d) who failed to take the necessary continuing education within 60 days, expeditiously suspend, revoke, downgrade to a non-certified credential, or recall their existing credentials and issue new credentials with a conspicuous overstamp stating "Not eligible to appraise federally related transactions";
 - f. For those appraisers who apparently committed fraud, immediately initiate disciplinary actions to suspend or revoke their certifications; and
 - g. By December 30th, provide ASC staff with updated spreadsheets of the 2003 and 2004 continuing education audits. Those spreadsheets need to indicate:
 - 1) The name and license number of each appraiser included in the audit;
 - 2) Whether the appraiser passed or failed the audit;
 - 3) For failures, whether the appraiser committed fraud;
 - 4) For failures, what disciplinary action and/or remedial action was taken; and
 - 5) The status of disciplinary/remedial action completion.

2. If the Department chooses, take the actions set forth in step 1 for its Licensed appraisers. If the Department chooses not to audit Licensed appraiser renewals, notify ASC staff of that decision so that we can change the “AQB Compliant” field in the National Registry database and ASC Web site to “Unknown” for Minnesota’s Licensed appraisers.
3. Finally, the Department needs to ensure that its continuing education affidavit procedures comply with ASC Policy Statement 10 F., which became effective January 1, 2005, when completing its next renewal cycle of August 31, 2005.

To comply with steps 1 and 2 above, Minnesota audited the continuing education claims of 2,283 appraisers who renewed their credentials in 2003 and 2004. Just prior to ASC staff arriving on-site for the field review, the Department provided a spreadsheet summarizing the 2003 and 2004 continuing education audit results. Shortly after the on-site portion of our field review, the Department provided an updated spreadsheet relating to the 2003 and 2004 audits. This updated spreadsheet reported the following information:

- 1,858 appraisers were AQB compliant;
- Of the remaining 425 appraisers (2,283 audited less 1,858 compliant);
 - 65 appraisers had yet to provide continuing education documentation;
 - Disciplinary actions were taken against 106 non-complaint appraisers. These actions varied according to the severity of the offenses. Sanctions included suspensions, civil penalties, and warning letters;
 - 235 files still were in the review process to determine compliance and possible sanctions;
 - Seven appraisers had retired and/or did not renew;
 - Ten appraisers were deceased;
 - One appraiser was placed on inactive status and granted an extension of time to respond because he was working in China; and
 - One appraiser was placed on inactive status and granted an extension of time to respond because he was in the hospital.

In summary, this left 300 appraiser audits remaining to be completed (65 incomplete files plus 235 files in the audit process).

2005 Credential Renewal Cycle

In response to step number 3 above, Minnesota attempted to perform a continuing education audit of 186 of the 1,182 appraisers who renewed their credentials on August 31, 2005. In February 2006, the Department determined that the 2005 audit was flawed because of the sampling approach. The Commissioner directed staff to conduct a 2005 continuing education audit using an appropriate random sample of renewing appraisers selected by computer. This continuing education audit was incomplete at the time of our field review.