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Appraisal Subcommittee

Federal Financial Institutions Examination Council

February 28, 2008

Mr. Gil Santana, President
Board of Examiners of Professional Real Estate
Appraisers
P.O. Box 9023271
San Juan, PR 00902-3271

Dear Mr. Santana:

Thank you for the cooperation and assistance of the Board of Examiners of Professional Real Estate Appraisers ("Board") and its Division of the Department of State ("Department") in the December 4-5, 2007 Appraisal Subcommittee ("ASC") review of Puerto Rico's real estate appraiser regulatory program ("Program"). Based on our review, we find that Puerto Rico's Program fails to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). The Program has serious weaknesses in the following areas: temporary practice; complaint investigation and resolution; credential issuance; credential renewal; National Registry fee submission; and providing disciplinary actions for inclusion in the National Registry.

We are particularly concerned about the longstanding deficiency concerning temporary practice. As discussed below, should Puerto Rico fail to cure this deficiency, the ASC will consider initiating a non-recognition proceeding against Puerto Rico under § 1118 of Title XI, 12 U.S.C. 3347, and 12 C.F.R. part 1102, subpart B, thereunder.

- **Temporary practice was not administered in a manner consistent with Title XI and ASC Policy Statement 5.**

During the current field review, ASC staff found that temporary practice still was not being administered in a manner consistent with Title XI and ASC Policy Statement 5 in that Puerto Rico was not issuing temporary practice permits within five business days of receiving completed temporary practice applications. We cited Puerto Rico for this concern in our 2004 field review, 2005 follow-up review, 2005 field review, and 2006 field review letters.

During the current field review, we found that permit processing time periods remained unacceptably long. We examined twelve temporary practice applications received between December 2006, and November 2007. Only one permit was issued within five business days of receipt of a completed application. Processing times generally ranged from 12 to 42 days.

In the Board's February 2, 2007 letter responding to our January 22, 2007 field review letter, the Board President at the time, Luis Rodriguez, stated that the Board was still trying to resolve this issue, but was faced with three obstacles: (1) the Department, which initially receives temporary practice applications, did not forward them to the Board in a timely manner; (2) the Board meetings occurred only once per month; and (3) the approval of temporary practice applications could not be delegated to Department staff.

In our field review and follow-up review letters since 2004, we discussed the need for the Board to change the location where applications are received from the Department to the Board's office. We also advised Puerto Rico of the need for it to delegate to Department staff authority to review and approve temporary practice applications. In addition, we stated that it was critical that the Board cure this longstanding problem.

In our April 4, 2007 letter to the Board, we stated that the following changes needed to be implemented most expeditiously:

1. Authorize Department staff to review and issue temporary practice permits. The Board can ratify these permits at subsequent Board meetings;
2. Change the application receipt address from the Department to the Board's office;
3. Take any other appropriate actions to ensure compliance with Title XI and ASC Policy Statement 5; and
4. Advise us in writing of the status of these items within one week after your next scheduled Board meeting.

In response, we received an August 8, 2007 letter from a Board member, Gloria Pacheco, stating: (1) Luis Rodriguez was no longer the Board President and that Gil Santana was the current President; (2) the Department's staff person handling Board matters, Joselle Vasquez, who provided administrative support for the Board, was on maternity leave from May to August; (3) Puerto Rico's government offices were closed from July 23rd to July 27th; and (4) the Board was moving the physical location of its offices. Ms. Pacheco also requested some additional time to respond to our April 4, 2007 letter. We have not received any further letters from the Board.

While on site in December, Jenny Tidwell met with Juan R. Caraballo Irigoyen, Assistant Secretary of State, to discuss Puerto Rico's continued deficiency in this area. Mr. Caraballo explained that only the Board and not the Department had authority to issue credentials, including temporary practice permits, and that the Board meets once per month. He also stated his opinion that, because ASC Policy Statement 5 requires the State either to issue the permit or to provide effective notice to the out-of-State appraiser regarding the status of his or her temporary request, the Department and Board would be in compliance with that Policy Statement if the Board notified applicants within five business days of the date of the next Board meeting during which temporary permit applications are approved or denied.

Mr. Caraballo's interpretation of ASC Policy Statement 5 differs from the ASC's interpretation. The Policy Statement requires the Department and Board to act on every temporary practice application within five business days of receipt. The Department and Board can take one of three actions: (1) approve and issue a temporary practice permit; (2) deny the permit and notify the applicant of the denial and the reason or reasons underlying that denial; or (3) identify specific deficiencies in the application and request additional information from the applicant. If further information were requested, the five-business day period would begin running again upon receipt of the additional documentation.

The Department and Board, within 30 days from the date of this letter, need to initiate significant actions to cure this longstanding deficiency and provide a written status update to us regarding those actions within 45 days from the date of this letter. The Department and Board need to take steps one through four stated in our April 4, 2007 letter to the Board. In alternative to

step one, the Board may wish to delegate the review and approval of temporary practice applications to a subcommittee of the Board that would meet whenever a temporary practice application is received for processing. Finally, we invite the Department and Board to determine whether alternative methods may exist to enable Puerto Rico to comply with ASC Policy Statement's five-day processing requirement.

The ASC will perform a follow-up visit within three months from the close of that 45-day period. During that visit, we will determine whether your actions have cured this deficiency. ASC staff also will assess whether the Department and Board are making sufficient progress on the other matters discussed in this letter.

- **Puerto Rico's complaint investigation and resolution program did not comply with Title XI and ASC Policy Statement 10 because complaints are not investigated and resolved in a timely manner.**

Although complaint files generally were well documented, and dispositions were consistent, substantiated, and equitable, the Board did not investigate and resolve complaints in a timely manner. While Puerto Rico's complaint load has been small, the number of complaints outstanding more than one year increased from three to four since the last field review. We previously cited the Department and Board for this deficiency in our January 22, 2007 field review letter.

The chart below provides summary statistics:

Field Review Date	Complaints received	Complaints outstanding	Complaints outstanding more than 1 year
Oct. 2005	13 (~9/year)	9	0
Nov. 2006	22 (~20/year)	6	3 (50%)
Dec. 2007	16 (~15/year)	17	4 (24%)

Under Title XI and ASC Policy Statement 10 E., States need to investigate and resolve complaints in a timely manner. Complaint resolution generally should occur within one year of complaint receipt. The primary cause of complaints outstanding for more than one year was due to a lack of resources. As noted previously, Board members perform the majority of day-to-day tasks associated with the Program's administration, including investigating all complaints, and serving as hearing officials in disciplinary matters. In addition, Ms. Vasquez administratively supports several other boards and provides only limited support to the Board.

To address this concern, the Department and Board need to:

1. Commit the necessary resources to the Board to ensure that complaints are investigated and resolved in a timely manner, as required by Title XI and ASC Policy Statement 10 E; and
2. Within 30 days from the date of the ASC's field review letter, provide the ASC with a specific written plan to resolve the four cases that have been outstanding for more

than one year and to ensure that newly received complaints are processed in a timely manner.

- **Puerto Rico issued certified appraiser credentials without ensuring that the applicants' experience was obtained over at least a 24-month or 30-month period as required by Appraiser Qualifications Board ("AQB") criteria.**

Puerto Rico requires applicants to submit experience logs to document qualifying experience. During the previous field review, we found that, while all applicants documented the necessary hours of experience, three work logs revealed that the qualifying experience was not obtained in at least 24 or 30 months, as required by AQB certification criteria (24 months for certified residential and 30 months for certified general).

When we brought this deficiency to the Board's attention, the Board immediately took remedial steps. The Board wrote to the three appraisers regarding their failure to have documented experience covering the appropriate time period. All three appraisers submitted an additional log detailing the required hours of experience in conformance with AQB criteria.

During the current field review, we again found that, while all applicants documented the necessary hours of experience, some work logs revealed that the qualifying experience was not obtained in at least 30 months, as required by AQB certification criteria. ASC staff reviewed 62 certified applications, and eight did not conform to that AQB criterion for qualifying experience spanning at least 30 months.

To address this situation, the Department and Board need to:

1. Immediately stop issuing certified credentials to applicants whose qualifying experience fails to conform to AQB criteria;
2. Within 30 days of receiving our field review letter, review all certified appraisers whose applications were processed after November 15, 2006;
3. Within 45 days of receiving our letter, for appraisers identified in Step 2, determine whether each appraiser's application file contains documentation supporting that the appraiser met the AQB criterion for qualifying experience spanning at least 24 or 30 months, as applicable;
4. Within 60 days of receiving our letter, contact all appraisers whose experience did not conform to AQB criteria and request an appraisal log or other documentation to support their experience;
5. Within 90 days of receiving our letter, review the appraisal logs or other documentation to determine whether the appraisers conform to AQB criteria;
6. For appraisers who cannot support their certified credential, or who fail to submit supporting documentation, immediately begin the necessary actions to downgrade the appraisers to a non-certified classification;
7. Within 120 days of receiving our letter, downgrade to the appropriate non-certified classification any appraisers who cannot provide acceptable experience documentation, or who fail to submit supporting documentation;
8. For those appraisers who do not have the necessary experience at the time the certified credential was issued, but who now have obtained the requisite appraisal experience, reissue the certified credentials with corrected effective dates;

9. Implement revisions to the application process to ensure that applicants for certified appraiser credentials conform to AQB criteria; and
 10. Within 120 days of receiving our letter, provide a status report regarding this issue to the ASC.
- **Puerto Rico renewed appraiser credentials without ensuring that the applicants had taken the 7-hour National Uniform Standards of Professional Appraisal practice (“USPAP”) Update Course, as required by AQB criteria.**

Effective January 1, 2003, AQB criteria required all appraisers to take the 7-hour National USPAP Update Course, or its equivalent, at least every two years as part of their continuing education completion. In calendar years 2003 and 2004, the AQB permitted appraisers to take either the 15-hour National USPAP Course or the 7-hour National USPAP Update Course (or their equivalents) to meet this criterion. Numerous publications and letters issued by the AQB to the States between 2002 and 2005 reiterated the AQB’s official Interpretation that the interchangeable use of these two courses was approved for 2003 and 2004 only, and that the authority ended on December 31, 2004.

Puerto Rico has four-year credentialing and continuing education cycles. During the previous field review, we found that the Department and Board renewed the certifications of three appraisers who failed to document completion of the 7-hour National USPAP Update Course, or its equivalent, at least every two years. The appraisers had taken two 7-hour National USPAP Update Courses, but not during the respective two year time-frames. To address the situation, the Board had each of the appraisers attend a Board meeting in which the Board members counseled the appraisers on the 7-hour National USPAP requirement. The Board subsequently issued them warning letters.

During this field review, we found that the Board accepted the 15-hour National USPAP Course in lieu of the 7-hour National USPAP Update Course for continuing education credit after December 31, 2004. We found at least four cases in which this occurred. The Board and staff claimed that they had forgotten that the courses were not interchangeable.

To resolve this concern, the Department and Board need to:

1. Immediately stop accepting the 15-hour National USPAP Course in lieu of the 7-hour National USPAP Update Course for certified appraiser continuing education fulfillment;
2. Within 30 days of receiving this letter:
 - a. Identify all certified appraisers whose credentials were renewed on or after January 1, 2005;
 - b. Determine for each appraiser identified in Step 2.a. whether the appraiser took the 15-hour National USPAP Course or the 7-hour National USPAP Update Course; and
 - c. Determine the date on which each appraiser identified in Step 2.a. took the National USPAP Course;
3. For certified appraisers whose credentials were renewed on or after January 1, 2005, and who relied on a 15-hour National USPAP Course taken on or after January 1, 2005 for continuing education fulfillment, immediately notify these appraisers that

they must successfully complete the 7-hour National USPAP Update Course, or its equivalent, within 30 days;

4. For any appraiser notified pursuant to Step 3 that fails to document successful completion of the 7-hour National USPAP Update Course, or its equivalent, within the 30-day period, downgrade the appraiser to a non-certified credential; and
5. Within 60 days of receiving this letter, provide a status report regarding this issue to the ASC.

- **Puerto Rico did not submit disciplinary action data to the ASC for inclusion in the National Registry in accordance with ASC Policy Statement 9.**

ASC Policy Statement 9 A. requires States to report disciplinary actions to the ASC, at least monthly. During the previous field review period, Puerto Rico had not reported the suspensions of three appraiser credentials. In the ASC's field review letter, the ASC directed the Board to provide us a listing of every disciplinary action that Puerto Rico had taken to ensure that the National Registry was up-to-date and to establish and implement the necessary procedures to ensure that all future disciplinary actions were reported to the ASC on a timely basis. While on site for the current review, we found that Puerto Rico failed to take these actions. More specifically, during the current review period, the Department and Board failed to report two suspensions to the ASC, as required by ASC Policy Statement 9 A.

To cure this deficiency, the Department and Board need to establish and implement the necessary procedures to ensure that all future disciplinary actions are reported to the ASC on a timely basis, and to forward to us within 30 days from the date of this letter a copy of those procedures, along with a listing of every disciplinary action that Puerto Rico has taken to date.

- **National Registry fees were not submitted promptly in accordance with ASC Policy Statement 8.**

ASC Policy Statement 8 requires that States remit National Registry fees within 45 days from the invoice date. During the previous review period, the ASC issued 18 invoices to Puerto Rico; Puerto Rico did not remit payment for six of the 18 invoices within the 45-day requirement. At the time of that review, no invoices were outstanding. In our field review letter, we directed the Board to immediately implement procedures to ensure that National Registry invoices were reviewed promptly and paid within 45 days of the invoice date and to forward a copy of those procedures to us within 60 days of the date of the ASC's field review letter. The Board failed to take those actions. In the Board's February 2, 2007 response letter, the Board informed us that it would be setting up a meeting with representatives of Puerto Rico's Treasury Department to resolve this issue. We have no information whether this meeting ever took place.

During the current review period, we found that Puerto Rico's invoice payment performance had improved. During the review period, the ASC issued 20 invoices to Puerto Rico, and Puerto Rico did not remit payment for two of the 20 invoices within the 45-day requirement. And, at the time of the current review, no invoices were outstanding.

To address this concern, the Department and Board need to immediately implement procedures to ensure that National Registry invoices are reviewed promptly and paid within 45

days of the invoice date and to forward a copy of those procedures to us within 30 days of the date of this letter.

Unless otherwise indicated above, please respond to our findings and recommendations within 60 days from the date of this letter. Your response should take into consideration that the ASC will consider initiating a non-recognition proceeding against Puerto Rico under § 1118 of Title XI, 12 U.S.C. 3347, and 12 C.F.R. part 1102, subpart B, thereunder, should Puerto Rico fail to cure the longstanding temporary practice deficiency,

Until the expiration of the 60-day 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.

Please contact us if you have any questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Carmen A. Carreras, Esq.
Assistant Secretary for Examining Boards
State Department

Juan R. Caraballo Irigoyen
Assistant Secretary of State
State Department

Joselle Vázquez
Board Officer
State Department