



# North Carolina Professional Appraisers Coalition

6640 I-Suite 237, Old Monroe Road, Indian Trail, NC 28079

[www.ncpac.org](http://www.ncpac.org)

Home Valuation Code of Conduct Response  
Attn: Senior Vice President, Credit Risk Oversight  
Freddie Mac  
1551 Park Run Drive, Mail Stop D2Z  
McLean, VA 22102-3110

4/24/2008

Dear Sir or Madam:

The North Carolina Professional Appraisers Coalition (hereinafter referred to as NCPAC) is comprised of hundreds of professional appraisers in North Carolina that have a common goal of encouraging professional appraisal practice and promoting professional appraisal services. In this capacity we recognize that the agreements by OFHEO, New York State Attorney General Andrew Cuomo, Fannie Mae and Freddie Mac (the Enterprises) to strengthen the independence of the appraisal process, announced March 3, 2008, will likely affect many (if not all) professional appraisers in North Carolina. Therefore, consistent with our common goal, we would like to respond to the announcement of these agreements and to make recommendations for positive changes in the design of the Independent Valuation Protection Institute and in the provisions of the Home Valuation Code of Conduct.

First, we are concerned that the repeated use of the term "appraisal fraud" (in the announcement and in stated HOME VALUE PROTECTION PROGRAM AND COOPERATION AGREEMENT) wrongly portrays professional appraisers as being largely responsible for mortgage fraud. While we recognize and readily acknowledge the regrettable fact that appraiser misconduct does sometimes occur, we also recognize that appraiser misconduct is not prevalent in professional appraisal practice and is not the primary cause of mortgage fraud. In fact, appraiser involvement in mortgage fraud is, more often than not, the result of an appraiser being pressured into wrongdoing by someone directly involved in a mortgage transaction (historically including; lenders, mortgage brokers, appraisal management companies, etc.). The use of this term (that, as far as we know, is not defined in any statute) is potentially misleading and counter to the stated goal of ensuring appraisal independence. Therefore, the NCPAC recommends that use of the term "appraisal fraud" (unless explicitly and unambiguously defined) be omitted from any further communication related to the HOME VALUE PROTECTION PROGRAM, the INDEPENDENT VALUATION PROTECTION INSTITUTE and/or the HOME VALUATION CODE OF CONDUCT.

NCPAC Recommends the following changes to the Home **VALUATION CODE OF CONDUCT** (delete wording struck through – and replace with wording boldface type. The reasons for the recommended changes are included in the comment following the recommended change).

I. 1) withholding or threatening to withhold ~~timely~~ payment for an appraisal ~~report~~; **at the time an appraiser accepts an assignment;**

Comment – There are two reasons for these changes. First; Appraisal fees are primarily established on the basis of reasonable compensation for appraisal development, rather than for "an appraisal report". Second; Use of the words "timely payment" is overly broad and does not prevent the use of undue influence on appraisers by withholding payment of the appraisal fee until the lender/client (or their agent) receives an appraisal report that meets required or stipulated results. Clearly, since lender conduct that can be used to influence a reported value conclusion is part of the problem, eliminating an entire category of conduct that has historically been used with some success in influencing appraisers would be useful. That is why NCPAC suggests the requirement that lenders/clients issue payment for the appraisal at the time the assignment is accepted by the appraiser.



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I. 8) allowing the removal of an appraiser from a list of qualified appraisers used by any entity, without prior written notice to such appraiser, which notice shall include written evidence of the appraiser's illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice (USPAP) or state licensing standards, substandard performance, or otherwise improper or unprofessional behavior, **without allowing the appraiser the opportunity to challenge the evidence in an objective forum;**

Comment – As paragraph 8) is currently written, the requirement a lender has to meet is that of 'notice'. It does not have to prove anything, just provide any statement/allegation and call it evidence of 'illegal conduct, a violation, and etcetera. The point is that there is no standard the evidence has to meet. Our recommendation provides two things: 1) an opportunity to respond, and 2) an objective forum in which to respond. It would not be fair to the appraiser to rely on the entity that was trying to impose deleterious consequences on the appraiser to objectively judge the matter.

III. The lender or any third-party specifically authorized by the lender (including, but not limited to, ~~appraisal management companies and~~ correspondent lenders) shall be responsible for selecting, retaining, and providing for payment of all compensation to the appraiser. The lender will not accept any appraisal report completed by an appraiser selected, retained, or compensated in any manner by any other third-party (including mortgage brokers and real estate agents).

Comment – Appraisal Management Companies are generally unregulated, while most (if not all) other parties involved in the mortgage lending process are currently regulated at some level, at least in some way, to help ensure an independent appraisal process. Recognizing that Appraisal Management Companies (and lenders and mortgage brokers) have exerted undue influence on appraisers in the past, it is difficult to understand why a generally unregulated entity (such as this) would be permitted (under the proposed HVCC) to order and oversee appraisal assignments (regardless of the ownership structure of the Appraisal Management Companies). The very real potential/probability for undue appraiser influence by Appraisal Management Companies will surely continue, unless and until the establishment of effective (state or federal) licensing and/or regulation requirements for Appraisal Management Companies. Therefore, NCPAC recommends that unregulated Appraisal Management Companies not be allowed to order and oversee appraisal assignments.

VII. The lender **and the IVPI (the Independent Valuation Protection Institute)** will each establish a telephone hotline and an email address to receive any complaints from appraisers, individuals, or any other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, which hotline and email address, **in the case of the lender**, shall be attended only by a member of the office of the General Counsel, Chief Compliance Officer or other independent officer.....

Comment – As currently written, lenders are expected to police themselves. That is, they are required to keep appraiser complaints confidential, and not to retaliate. NCPAC recommends that the IVPI (the newly formed Independent Valuation Protection Institute) is the more appropriate entity to take appraiser complaints, since it is conceptually designed to act objectively in evaluating them.



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IX. Any ~~lender~~ **appraiser** who has a reasonable basis to believe ~~an appraiser~~ **a lender** is violating applicable laws, or is otherwise engaging in unethical conduct, shall promptly refer the matter to the Independent Valuation Protection Institute. ~~and to the applicable State appraiser certifying and licensing agency.~~

Comment – This recommendation is based on the recognition that appraiser involvement in mortgage fraud is mostly caused by an appraiser being pressured into wrongdoing by someone directly involved in a mortgage transaction. If the goal of ensuring appraisal independence is to be realized, appraisers must be able to report any instances of undue pressure without fear of retaliation.

Sincerely,

Douglas G. Winner  
President NCPAC  
[doug@ncpac.org](mailto:doug@ncpac.org)

cc:

OFHEO  
Fannie Mae  
NC Appraisal Board  
Roy Cooper, Esq, Attorney General for the State of North Carolina  
NC Senator Elizabeth Dole