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Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 17, 1998

Edwin Olson
620 East 22
West Fargo, ND 58078

Dear Mr. Olson:

We received your letter explaining your efforts to become certified in North Dakota. You questioned whether a State could change its requirements during the period in which a prospective licensee was working toward obtaining a particular designation. You also asked if question number eleven on North Dakota's application somehow implied that it, a voluntary State, was trying to regulate activities under the deminimus level. Further, you wondered whether unlicensed activities could keep an appraiser from being granted a license or certificate.

As a State regulatory entity, the North Dakota Real Estate Appraiser Qualifications and Ethics Board ("Board") can establish and amend requirements as it deems necessary and as Federal law dictates. Administrative law requires notices of impending changes to be issued, and sometimes public hearings to be conducted before rules are amended. The Board also has the authority to adopt policies to further aid in the administration of the program. It is incumbent on appraisers, potential applicants and other interested parties to remain abreast of the licensing and certification requirements. Persons applying for licensure or certification after amendments or policies are finalized must adhere to the new requirements.

Question number eleven on the North Dakota application asks, "Have you ever practiced, or held yourself as being certified or licensed to practice real estate appraisal in any State, when in fact you were not certified or licensed to do so?" According to Federal banking regulations, licensed and certified appraisers must be used in the valuation of a property for loans above specific thresholds. No one in any State can fraudulently claim to be a licensed or certified appraiser, when they do not, in fact, hold that designation. While North Dakota's voluntary State law does not specifically require individuals to be licensed or certified, it does prohibit an individual from identifying himself as a licensed or certified appraiser in the State when he has not been issued a license or certificate by the State. So, for example, although you are certified in Minnesota and South Dakota, you can not perform appraisals for federally related transactions in North Dakota without also being certified in North Dakota. Legal action can be taken against an appraiser found to be practicing without a State license or certificate and the revelation of such activity can be the basis for denying an applicant for certification or licensure.

We hope this letter adequately addressed your concerns. If you have any other questions, please do not hesitate to contact us.

Sincerely,

Ben Henson
Executive Director