

Lee & Grant

COMPANY

28 July 2004

Ms. Virginia Gibbs
Chairperson
Appraisal Subcommittee
20th and 'C' Streets, N.W.
Washington, D.C. 20551

Dear Madame Chairperson:

Thank you for your time during our recent telephone conversation in which we expressed again our concern over the rapacious policies of the Appraisal Foundation. Thank you also for your willingness to consider our making a presentation before a meeting of the Appraisal Subcommittee to express further our concerns.

On the positive side, we note with appreciation that, according to one of your members, you have forced the Foundation to drop its annual changes of the Uniform Standards. The constant reworking of the Uniform Standards has long been an obvious ploy of the Foundation to generate recurring annual revenues by promoting and selling a "news Standards book every year. If you have indeed thwarted this practice, we applaud and thank you for your efforts in this regard. This would be a wonderful step in checking one of the Foundation's primary strategies in manipulating the appraisal industry for its financial gain. Most importantly, it would signal a willingness, finally, on the part of the Appraisal Subcommittee to regulate the Foundation.

Does your put reluctance to deal with the problem of the Foundation stem from an uncertainty over your role as a regulator? Your Subcommittee seems to question its authority under Title XI of the 1989 Financial Institution, Reform and Recovery Enforcement Act (FIRREA). Rare is the conversation we have ever had with a Subcommittee member that the member did not retreat to the position that the Subcommittee really has less power to control the Foundation than many outsiders (presumably including us) ascribe to you. In one memorable instance, one of your members stood on the floor of an Association of Appraiser Regulatory Officials (AARO) meeting in Washington, D.C. and, in an emotional lamentation, mournfully pleaded powerlessness when urged to regulate the Foundation.

The view so often expressed by your members that we outsiders expect more than you can do to regulate the Foundation is curious. Surely, you must recognize that, when the United States Congress in Title XI gave regulatory authority over a public

Chairperson Virginia Gibbs

28 July 2004

page two

profession to a private entity, It would provide a governmental safeguard. That safeguard Is your Subcommittee, Isn't It? The concern the Congress must have had was the possibility of this private entity using its regulatory authority to exact advantage for itself. And, of course, this is what has happened as the Foundation has aggressively pursued policies that map revenues for its own bank account.

Again, that Congressionally mandated safeguard that was supposed to prevent what has actually happened is your Subcommittee. Isn't It, Madame Chairperson? If we are wrong on this point, where are we wrong? If we are on the right track here, why have you so often in the past refused to exercise your authority to protect the appraisal Industry and the public from the Foundation?

Possibly, Madame Chairperson, you and your colleagues believe the Foundation is well meaning and that there is no need to protect the public from what are benevolent Foundation programs. Yet, you have reportedly reversed the constant Standards changes that were an obvious book-selling tactic by the Foundation. And we are hoping you will wade in on what is the Foundation's most ambitious revenue generating scam to date, its so-called National USPAP program.

By what reading of Title XI do you see Congress granting the Foundation authority to create an educational monopoly by requiring a private company such as Lee & Grant to go to one source only, the Foundation, for a course it sell, to the public? Title XI authorizes the Appraiser Qualifications Board (AQB) of the Foundation to set minimum criteria for certification." Are you saying that allows the Foundation to abrogate our right of free and competitive enterprise In the marketplace to earn the buying public's dollar?

Our business is providing education to the public. That is how we make a living. Why do we have to buy the Foundation's USPAP course or pay extortion to the Foundation for its approval of a so-called equivalent course? Why should our right of free trade and the right the public has to free trade fall victim to Foundation avarice?

What It the Foundation: a regulator or a competitor in the marketplace? It can't be both, can it? Can it mandate that certain course materials be used and then sell those materials in the marketplace? What if Lee & Grant Company does not want to use those materials? It must go to the Foundation, pay extortion money to get its own course approved by a Foundation appointed reviewer. Then we can sell our own course. But, wait. Who would be competing against Lee & Grant Company

**Chairperson Virginia Gibbs
2 July 2004
page three**

**for course materials? The Foundation. And whose regulatory creation is all this?
The Foundation.**

Now, Chairperson Gibbs, this isn't going to make it, the Foundation being both a regulator and a competitor of *ours* in the marketplace. But get this: the Foundation congratulates itself for deigning to allow competition! At the AQB meeting in New Orleans last year, a Foundation spokesman gushed over the Foundation's generosity in providing for the equivalency option, thereby graciously permitting competitors to the Foundation on USPAP materials. But only those competitors to whom the Foundation allows access. Doesn't that concept of a free marketplace make you or any of your fellow members of the Appraisal Subcommittee just a little uneasy?

If the Foundation is going to regulate, see that it regulates and get it out of making money off the market that it regulates. On the other hand, if it wants to drop its regulatory role, swell. We would love to see it try to sell Its educational materials In a market that really Is competitive.

You ask if other educational companies object to the Foundation's USPAP program. That Is not the germane question here. Ask other schools if you want the answer to your query. What your Subcommittee should be asking is: Is the Foundation's USPAP program compliant with Title XI? This is your job in the ASC, Isn't It? Ensuring compliance with Title XI. By the States and, the Foundation.

Why is regulating the Foundation such an agonizing Issue for the Appraisal Subcommittee? Appraisal Subcommittee representatives are so assiduous in their efforts to ensure State compliance with Foundation edicts. The States are mindful that Title XI allows your Subcommittee to disapprove 'the certifications and license.'" Issued by their appraisal boards if your Subcommittee finds they are not complying with Title XI. That is a heavy club, Madame Chairperson, and your ASC staff personnel use the threat of it skillfully. Why can't you regulate the Foundation with the same fervor you regulate the States?

To regulate the Foundation, you have, it appears to as, two enforcement tools at your disposal: withholding of grant money Title XI allows you to give the Foundation and denial of enforcement of Foundation program on the States. These seem obvious to on. And that is why it is so strange to hear ASC members question their ability to regulate the Foundation. What Is It here that you see that we do not?

**Chairperson Virginia Gibbs
28 July 2004
page four**

Now, your first enforcement tool with the Foundation, withholding grant money, may actually have lost much of its clout. The Foundation appears to making so much money with its so-called National LJSPAP program forced on companies like ours that its newfound riches may give it a financial independence that will make it resistant to your tightening of the purse strings. Enclosed please find our letter to the Foundation in which we estimated several years ago what this extortion of companies like ours would bring the Foundation. Also enclosed is the Foundation's reply, refusing to address the Issues we brought up.

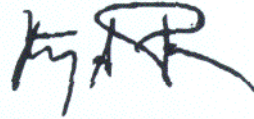
But, your second enforcement tool, not enforcing Foundation policies inconsistent with Title XI on the States, should be a very effective way of regulating the Foundation. Make it clear to the States the Foundation's so-called National USAP program does not comply with Title XI and that you have no intention of forcing this program on them. Tell the Foundation Congress gave it authority to regulate, not to forge policies that force its products on the appraisal industry for its own pecuniary stash.

And, there is a third enforcement tool that you have at your disposal, isn't there? That is, of course, the prominence and prestige of the central role that Congress assigned you in Title XI. It is difficult to read Title XI without coming to the conclusion that Congress made you, the Appraisal Subcommittee, the linchpin upon which success of this law largely rests. This law created you (Section 1102), it enumerates your functions, including "monitoring and reviewing" the Foundation (Section 1103), it mandates a chairperson (Section 1104), it calls on the chairperson to appoint officers and staff (Section 1105), it describes powers of the Subcommittee (Section 1106), it provides for start-up funding for your Subcommittee (Section 1108), it orders you to maintain a national registry of real estate appraisers and authorizes you to collect annual fees from appraisers (Section 1109), it allows you to "not recognize appraiser certifications and licenses" from States your Subcommittee finds are not complying with Title XI (Section 1118), it orders you to "encourage the States to develop reciprocity agreements" permitting appraisers to appraise in other States (Section 1122).

Prominence and prestige, Madame Chairperson, are what Congress has given you in this law. Why not wield them for the benefit of all of us in the appraisal industry and, most importantly, for the good of the public?

Chairperson Virginia Gibbs
28 July 2004
page five

Sincerely,



Stephen G. Patten
Director of Education

Enclosures

cc **Senator Zell Miller**
Senator Saxby Chambliss
Senator Richard Shelby
Senator Paul Sarbanes
Senator Wayne Afford
Congressman Mac Coffins
Congresswoman Marge Rookeries
Congresswoman Denise Majette

Staff, Committee on Banking, Housing, and Urban Affairs, U.S. Senate
Staff, Subcommittee on Transportation and Housing of the Committee
on Banking, Housing and Urban Affairs, U.S. Senate Staff, Committee
on Financial Services, U.S. House of Representatives U.S. General
Accounting Office U.S. Department of Justice, Office of the Attorney
General U.S. Department of Justice, Anti-Trust Division U.S.
Department of Justice. Office of the Inspector-General U.S. Department
of the Treasury, Office of the Secretary U.S. Department of the
Treasury, Office of the Inspector-General Federal Reserve Board,
Office of the Chairman Federal Reserve Board, Office of the
Inspector-General Federal Deposit Insurance Corporation, Office of the
Inspector-General
National Credit Union Administration, Office of the Inspector-
General
Federal Trade Commission
Members of the Federal Financial Institutions Examination Council
Members of the Appraisal Subcommittee
State Real Estate Appraisers Boards