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# Kentucky Real Estate Appraisers Board

June 27, 2002

Jul - 1

Mr. Ben Henson, Executive Director  
Appraisal Subcommittee  
2000 K Street, NW, Ste. 310  
Washington, DC 20006

RE: FFIEC June 11, 2002 Legal Opinion

Dear Mr. Henson:

The June 11, 2002 legal opinion issued by the Legal Advisory Group of the Federal Financial Institutions Examination Council was very comprehensive and enlightening. However, the carefully worded questions were done so in a manner to solicit a favorable response for the ASC and AQB. The shallow and generic questions missed the point and left the important questions unanswered.

I would suggest these questions to the FFIEC.

- (1) Does Title XI grant the AQB authority to establish a monopoly whereby requiring instructors desiring to teach USPAP shall take and pass the National USPAP Instructors Course, offered only by the Appraisal Foundation, for a fee of \$425.00?
- (2) Does Title XL grant the AQB authority to establish criteria that requires the nations approximately 75,000 appraisers to take the 7 hour National USPAP Course every two years, taught only by a AQB approved instructor and a fee paid to the Appraisal Foundation for the issuance of a completion certification? While the criteria calls for approval of an alternate course, at the present time, no approval process has been established.

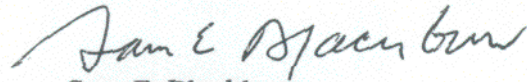
In essence, the question is, Does Title XI authorize the AQB to establish the education criteria, whereby in doing so, the AQB creates a monopoly, and directly profits from the monopolistic criteria? Is profiting from a monopoly covered by the Sherman Anti-Trust Act and is the Appraisal Foundation in violation of the Act?

Also, the ASC may wish to inquire if the process used in writing and validating the questions for the National USPAP Instructors Exam meet any recognized industry standards? I seriously doubt a competent psychometrician or the courts will find the validation process credible.



If the ASC feels the education criteria is just and necessary, why not fund the criteria from the 5 million the ASC has in reserve and remove the profit aspect. The Appraisal Foundation, through the AQB, is attempting to generate funds off the backs of our nation's appraisers and education providers with the assistance and concurrence of the ASC.

Sincerely,

A handwritten signature in black ink that reads "Sam E. Blackburn". The signature is written in a cursive, flowing style.

Sam E. Blackburn  
Executive Director

SEB:mlz

cc: The Appraisal Foundation