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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 10, 2004

Mr. Stephen G. Patten  
Lee & Grant Company  
4333 Dunwoody Park, Suite 1412  
Atlanta, GA 30338

Via: U.S. Mail and Faxed to 770-351-0072

Dear Mr. Patten:

This letter responds to your July 28, 2004 letter in which you raised questions regarding the Appraisal Subcommittee's (the "Subcommittee") oversight of the Appraisal Foundation (the "Foundation") and the activities of the Foundation's two boards, the Appraiser Qualifications Board ("AQB") and the Appraisal Standards Board ("ASB"). Further, you requested the opportunity to make a presentation before the Subcommittee to express your concerns.

It appears that the issues raised in your July letter reflect the same views of the Foundation that you have previously raised with the Subcommittee over the past three years. In your most recent letter, you again criticize the Subcommittee for the purported failure to regulate the Appraisal Foundation. It is your view that the Subcommittee does not use its power to "monitor and review" effectively, and thereby prohibit the Foundation from creating an educational monopoly in the appraisal industry and, thus, preventing a private company, such as yours, from offering appraisal courses in competition with the Foundation's courses.

As we have previously explained to you, the Subcommittee's oversight authority over the Foundation and its boards is set forth in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). Under Section 1103(b) of Title XI (12 U.S.C. 332(b)), Congress directed the Subcommittee to monitor and review the practices, procedures, activities, and organizational structure of the Foundation. Your criticism of the Subcommittee appears to call into question whether the Subcommittee provides effective oversight over the Foundation and its Boards consistent with the requirements of Title XI.

To respond to questions concerning its authority to provide oversight of the Appraisal Foundation, the Subcommittee sought a legal opinion from the Legal Advisory Group of the Federal Financial Institutions Examination Council (FFIEC). On June 11, 2002, the Legal Advisory Group ("LAG"), composed of the General Counsels of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, and the National Credit Union Administration, issued its opinion that the Subcommittee's approach to overseeing the AQB appears to be consistent with the Title XI provisions. The LAG opinion stated that Title XI does not authorize the Subcommittee to establish the minimum criteria for state certification of appraisers and, therefore, it should not substitute its judgment for that of the AQB in establishing the criteria. Further, LAG stated that Congress did not provide the Subcommittee with the authority or the power to direct or overrule the operations or structure of these private entities. In summary, LAG's view was that the Subcommittee had established and implemented steps to provide effective informal oversight of the Foundation and its boards. Attached is a copy of this LAG opinion.

As noted in the LAG opinion, the legislative history indicates that Congress intended Title XI to help solve the appraisal-related problems that had contributed to the widespread insolvency of financial institutions and deposit fund losses by, in part, creating appraisal certification standards that were consistent nationwide. Rather than dictating particular criteria in the statute, Congress looked to the Foundation and its AQB as the source of the minimum appraiser certification criteria.

Based on the requirements of Title XI and the advice of the agencies' legal counsels, the Subcommittee believes that its efforts to monitor the activities of the Foundation and its boards are reasonable, and that the activities of the Foundation and its boards are not arbitrary or capricious, or otherwise inconsistent with the law. Regarding the issues discussed in your letter, we have found that the Foundation and its boards to date have acted in a manner consistent with Title XI and the intent of Congress.

Since your recent letter does not raise any new issues, we do not believe that it is necessary for you to make a presentation to the Subcommittee. However, if you do wish to discuss new substantive issues or concerns, you may request to meet with the Subcommittee. Further, if you wish to attend and observe the open portion of a Subcommittee meeting, please refer to the information on the Subcommittee website for the procedures to request attendance at a meeting. This information is available at [www.asc.gov](http://www.asc.gov) and is attached to this letter.

Sincerely,

Virginia M. Gibbs  
Chairman

Attachments