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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

Via FAX & Internet Email

January 24, 2002

Tim J. Moore, Chairman  
State of Montana Board of Real Estate Appraisers  
P.O.B. 200513  
301 South Park Avenue  
Helena, MT 59620-0513

Dear Mr. Moore:

Thank you for today's letter, which we received via email. In your letter, you stated that the Montana State Board of Real Estate Appraisers ("Board") has been in litigation with several appraisers for the past two years, and that, because of that litigation, the Board placed all complaint proceedings on hold. Recently, however, you decided to begin processing all pending complaints that did not directly involve the litigants. On January 30, 2002, you will be holding a screening panel meeting to start complaint resolution process. Your chief counsel, Kevin Braun, advised you that the Board should only proceed with these complaints using the 1991 issue of the Uniform Standards of Professional Appraisal Practice ("USPAP"). He also provided the alternative of dismissing all existing complaints. You asked whether we would have a problem with your pursuing these complaints under the 1991 issue of USPAP. Finally, you stated that the Board is committed to processing these open complaints and wants to ensure that Montana will remain in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI").

At the outset, we do not believe that the wholesale dismissal of all open complaints would be consistent with Title XI. We believe, however, that the other alternative, the Board's use of the 1991 version of USPAP, would not be problematical *per se*. All USPAP versions have contained the core duties of acting professionally, ethically, and competently, in an unbiased manner. While USPAP has evolved significantly over the years, the 1991 version, as well as the 2002 version, protects against fraud, negligence, and bias. While pursuing these complaints, we would expect you to apply these core concepts.

We also recognize that the 2002 USPAP differs substantially from the 1991 USPAP in many ways. Many of these changes are technical in nature, and, in most instances, would result in an appraiser technically violating the 1991 USPAP. For example, complete or limited appraisals and three types of reports (restricted use, summary, and self-contained) did not exist in 1991. The 1991 USPAP, in effect, recognized only complete appraisals and self-contained reports, tempered by use of the Departure Provision. An appraiser's use of limited appraisals and restricted use or summary reports today, therefore, would result in an apparent technical violation of the 1991 USPAP. The Board, we believe, however, could choose to exercise its prosecutorial discretion and not pursue such violations. We suggest that you request your Chief Counsel to look into these issues to ensure that our approach would be consistent with State law.

In closing, we appreciate that the Board has decided to pursue all open complaints, other than those relating to the defendants in the litigation. Please contact us if you have any questions.

Sincerely,

Marc L. Weinberg  
Acting Executive Director and  
General Counsel