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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 22, 1998

Logan H. Babin, Jr.
Chairman
Louisiana Real Estate Appraisers
State Board of Certification
Post Office Box 17485
Baton Rouge, Louisiana 70898-4785

Dear Mr. Babin:

Thank you for your November 24, 1998 letter responding to our November 2, 1998 letter about your enforcement procedures and practices. We agree that the Louisiana Real Estate Appraisers State Board of Certification ("Board") has acted in good faith as shown by its responses to our letters and the March 1997 field review and September 1998 follow-up. The Board, however, disagrees with our finding that enforcement penalties have not reflected the seriousness of violations, and that it has failed to pursue obvious serious violations of law. You requested:

- That we furnish you with a list of what we consider "serious violations";
- What we consider to be appropriate sanctions or penalties for each of those violations;
- Specific examples from our field reviews, where we determined that the Board failed to take appropriate action; and
- Any information we have regarding monetary fines for specific offenses and how they are administered.

Serious violations: We do not believe it appropriate for us to provide you with a "list" of serious violations. Such a determination is the State's responsibility. We, however, are charged by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI") to determine whether States "recognize and enforce the standards, requirements, and procedures prescribed [by Title XI]" and whether States' "decisions concerning appraisal standards . . . and supervision of appraiser practices are . . . made in a manner that carries out the purposes of [Title XI]." In that regard, we can draw on our experience in monitoring 56 State and Territory appraiser regulatory programs and in performing more than 100 on-site reviews of these programs.

While each State's program varies, we have seen two types of violations that generally are considered by the States to be most serious: violations involving fraud and repeat violations by the same appraiser. Violations involving fraud include, for example: creating comparable sales data when the transaction did not take place; falsifying education or experience data on applications; falsifying signatures on appraisal documents; and using a false State license or certification number with the intent to mislead. Repeat violations by the same appraiser become serious because they generally reflect the appraiser's inability or unwillingness to perform at an acceptable level.

Appropriate sanctions or penalties: We also do not believe it appropriate for us to provide a listing of sanctions to be applied to various violations. This decision rests with the State. Nevertheless, based on our experience, we can provide two general guidelines. First, the severity of the sanction needs to be commensurate with the seriousness of the violation. Second, it is critical that sanctions and penalties are determined in an equitable, unbiased manner. Most States focus their disciplinary efforts toward education and correction for less serious violations. The resulting actions include, among other things, warning letters, requirements to take educational courses, and various types of probation. More serious violations are sanctioned with monetary penalties, suspensions, and revocations.

Examples from our field reviews: Our June 24, 1997 letter, reporting on our March 1997 field review, contained examples of cases that triggered our concerns. We also cited examples in our November 2, 1998 letter. We prefer not to discuss individual cases in correspondence because of Privacy Act concerns. Kathryn Gearheard, our Senior Appraisal Policy Manager, discussed specific examples with you by telephone on October 12, 1998, and is available for further discussion at your convenience.

Information regarding monetary fines: Many States use monetary fines effectively in administering their programs. Two States that come to mind are Alabama and Oregon. You may wish to contact these States for information. As always, the severity of the sanction should mirror the seriousness of the violation, and monetary penalties should be applied in a consistent, equitable, non-biased manner. We are pleased that you are drafting legislation to add this enforcement option to Louisiana's program.

We also are pleased that the Board is revising its application and enforcement review process to reduce or eliminate problems encountered with ex parte communications. This revision should improve the Board's ability to exercise its enforcement jurisdiction.

We appreciate your willingness to work with us to resolve our concerns. Please contact us if you have additional questions.

Sincerely,

Ben Henson
Executive Director