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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

March 20, 2002

George R. Harrison, Ph.D.  
The Columbia Institute  
8546 Broadway  
Suite 237  
San Antonio, TX 78217-6340

Dear Mr. Harrison:

This letter responds to your March 7, 2002 letter requesting a legal opinion, or a copy of such an opinion, regarding certain activities of the Appraiser Qualifications Board of the Appraisal Foundation (“AQB”). As background for your request, you referred to an exchange that took place between then-AQB Chairman Arlen Mills, Appraisal Subcommittee (“ASC”) General Counsel Marc Weinberg, and a conference attendee during the October 2000 Conference of the Association of Appraiser Regulatory Officials (“AARO”). The attendee asked Mr. Mills about the legality of the AQB’s then-proposed plans to require that: (1) USPAP qualifying education credit be awarded only when at least one of the instructors is an AQB Certified Instructor who is also a state certified residential or general appraiser; and (2) as a prerequisite to sitting for the licensing/certification exam, the 15 classroom hour Uniform Standards of Professional Appraisal Practice (“USPAP”) course must be the AQB’s 15-hour National USPAP Course or its equivalent. Mr. Mills responded that both the Appraisal Foundation’s counsel and the ASC’s General Counsel had opined that those AQB initiatives were legal. At that time, Mr. Weinberg stated that he had not issued such an opinion. It appears that you concluded that Mr. Weinberg had concerns about the legality of the AQB’s initiatives. You now request a copy of Mr. Weinberg’s legal opinion, if issued. If, however, Mr. Weinberg has not issued a legal opinion, you requested that he prepare such an opinion.

Mr. Weinberg recalls that his comment at the conference was not substantive in nature and was intended only to clarify the fact that he had not issued, and the ASC therefore had not approved, a formal, written legal opinion. He, however, further stated informally his personal view that the AQB’s initiatives appeared legal and within the AQB’s statutory authority. Because no such written opinion exists, we cannot provide you with a copy as requested.

We, however, will be able to assist you regarding your request for such an opinion. A few months ago, the ASC asked the Legal Advisory Group (“LAG”) of the Federal Financial Institutions Examination Council<sup>1</sup> for a legal opinion regarding: (1) the scope of authority of the AQB to adopt education-related standards for certified real estate appraisers; (2) the authority of the ASC to monitor the AQB; and (3) the ASC’s authority to oversee state appraiser regulatory agency implementation of those AQB standards, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).<sup>2</sup> More specifically, the ASC requested a legal opinion on these specific issues:

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<sup>1</sup> The LAG consists of the General Counsels of the Board of Governors of the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, and National Credit Union Administration.

<sup>2</sup> Pub. L. No. 101-73, 103 Stat. 183 (1989).

- Does Title XI authorize the AQB to adopt minimum education requirements for certified real estate appraisers, including those relating to continuing education and distance education;
- Is the ASC's interpretation of its duties to monitor and review AQB activities appropriate and consistent with Title XI and other applicable law; and
- Was the ASC acting improperly or in any manner inconsistent with Title XI or other law when it instructed States to rescind their approvals of continuing education courses for certified real property appraisers that did not conform to AQB criteria?

We expect that the LAG will issue its opinion shortly. We will be glad to provide you a copy of the opinion at that time.

Please contact us if you have further questions.

Sincerely,

Ben Henson,  
Executive Director

cc: Senator Zel Miller  
The Honorable Marge Roukema  
The Honorable Mac Collins  
The Honorable Charles A. Gonzalez  
The Honorable Johnny Isakson  
The Honorable Max Sandlin  
Mr. Paul Kangas, House Committee on Financial Services  
Mr. Charles Clark, Georgia Real Estate Appraiser Board  
Mr. Mel Black, President, AARO  
Mr. Peter Barash