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Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 15, 2005

Ms. Kim Holland, Commissioner
Oklahoma Insurance Department
P.O. Box 53408
Oklahoma City, OK 73152-3408

Dear Ms. Holland:

Thank you for the Oklahoma Insurance Department's ("Department") and the Oklahoma Real Estate Appraisers Board's ("Board") cooperation and assistance in the February 3-4, 2005 Appraisal Subcommittee ("ASC") review of Oklahoma's real estate appraiser regulatory program ("Program"). The Program functions in a manner generally consistent with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). As discussed below, we identified one area of concern regarding your enforcement program, which, we believe, was addressed sufficiently by the Department and Board last year.

- **From mid-2002 through mid-2004, Oklahoma failed to appropriately investigate and resolve numerous appraiser-related complaints.**

During part of the three-year review period, Oklahoma failed to investigate and appropriately resolve a number of complaints. From mid-2002 through mid-2004, many cases were closed improperly, as discussed below. In mid-2002, the Board redesigned its complaint handling process and adopted emergency rules, effective July 14, 2002, that established new disciplinary procedures and committees.

The new procedures focused on the Standards and Disciplinary Procedures Committee ("Committee"), which consisted of volunteers from the appraiser community. The Board chooses volunteers from this Committee to serve on the Hearing Committee and the Probable Cause Committee ("PCC"). Each PCC member serves for a three-month interval. The PCC evaluates the merits of each case and makes recommendations to the Board regarding case disposition, which can include dismissal, stipulated settlement, or referral for prosecution.

During the mid-2002 through mid-2004 period, the PCC dismissed without prejudice approximately 64% of cases. We found the reasons for dismissal inappropriate in many cases. For example, some dismissals were based on:

1. The complainant was not the "intended user" identified in the appraisal report, or another legally permissible recipient of the report;
2. The appraiser did not intend to mislead; and
3. Information provided with the complaint did not provide clear and convincing evidence of the alleged misconduct.

When we discussed this situation with the Board staff, we learned that the Board staff and the Board had identified these flaws in 2004. Director Stirman, on behalf of the Board, requested a letter from the Attorney General addressing the legal requirements of Title XI and State law as they applied to the Board and its committees. Assistant Attorney General Joann Stevenson responded in an April 4, 2004 letter and provided guidance to the Board. The Board revised the PCC screening function accordingly.

Our review of complaint cases processed under the revised procedures showed that they were handled appropriately. Since mid-2004, following these new procedures, the PCC referred a majority of cases for further investigation and possible prosecution. In addition, the PCC reopened several previously closed cases when additional complaints were received regarding the appraisers named in the closed complaints.

We appreciate that the Department and Board recognized the flaws in its complaint investigation and resolution procedures and took appropriate steps to revise the Program.

On a different enforcement-related issue, we are somewhat concerned about the Program having sufficient resources to process the increasing number of complaints being forwarded for investigation and prosecution. Because most of Oklahoma's investigatory and prosecutorial duties are contracted out to contract attorneys who charge the State at significant hourly rates, budgetary impacts could be considerable. We encourage you and the Board to monitor this situation closely to ensure that sufficient resources remain allocated and available to carry out these responsibilities.

Please respond to our findings and recommendations within 60 days following the receipt of this letter. Until the expiration of that period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

Please contact us if you have further questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: George R. Stirman III, Director