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Testimony of  
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Chief Executive Officer, Iowa Residential Appraisal Company  
Des Moines, Iowa

On Behalf of the  
Appraisal Institute and  
American Society of Appraisers

Before the House Committee on Small Business  
On

**"RESPA Reform and the Economic Effects on Small Business"**

Presented by  
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President, Appraisal Institute  
Chief Executive Officer, Iowa Residential Appraisal Company  
Des Moines, Iowa

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On Behalf of the Appraisal Institute and American Society of Appraisers  
Before the  
Committee on Small Business  
United States House of Representatives

Mr. Chair and members of the Committee, I am Alan Eugene Hummel, SRA, President of Iowa Residential Appraisal Company in Des Moines, Iowa and 2003 President of the Appraisal Institute. I am pleased to be here today on behalf of the Appraisal Institute and American Society of Appraisers, which together represent more than 25,000 real estate appraisers in the United States.

I want to thank you for holding this hearing. The Department of Housing and Urban Development (HUD) Proposed Rule on the Real Estate Settlement Procedures Act (RESPA) is of great importance to consumers and the financial community. This issue is also important to members of our organizations, who together constitute the leading professional organizations of appraisers in the United States.

Our organizations have concluded the proposed RESPA rule not only poses a threat to consumer protection, but also threatens the ability of real estate appraisers to continue offering real estate appraisal services, particularly in non-metropolitan markets. HUD's economic analysis of the proposed rule's impact on small businesses is deficient in a number of respects, and the very premise with which HUD is operating is flawed, which I will explain in detail below. It is our view the proposed RESPA rule is in need of considerable modification before it should be accepted as a Final Rule.

### **The Role of Real Estate Appraisers**

First, I would like to explain the role real estate appraisers play in the real estate market. The expertise of a real estate appraiser is commonly used in situations involving the transfer of ownership, financing and credit, litigation, taxation and investment counseling and in other business decision making. For example, real estate appraisers can help prospective homebuyers set an offering price or help prospective sellers determine acceptable selling prices. Appraisals are also oftentimes essential in litigation, eminent domain, property divisions and environmental litigation proceedings, as well as tax matters in terms of developing and reporting an opinion of assessed or market value.

As it pertains to the HUD RESPA rule, real estate appraisals are used in a decision to underwrite a loan on real property. Under these circumstances, by law, the real estate appraiser, an independent third party, is to be engaged by the financier of a mortgage to estimate market value of the property for underwriting purposes. However, the cost of these services is passed on to the consumer applying for a mortgage. Under current federal requirements, the appraisal costs are stated as a line item on the HUD-1 statement provided to the consumer at closing. As required by the Truth in Lending Act, the consumer has the right to obtain a copy of the appraisal. It should be noted that although the appraisal is paid for by the consumer, the appraiser's client is the financier of the mortgage. However, I will speak to how we, and HUD, believe that the appraisal is of interest to consumers.

There are many different types of appraisal or valuation services that can be provided by an appraiser. Federal law requires compliance with minimum standards in certain circumstances and market forces dictate the rest of the appraisal services market. Officially, an "appraisal" is the act or process of developing an opinion of value. Appraisals conform to industry-wide standards known as the Uniform Standards of Professional Appraisal Practice (USPAP) and are performed by licensed or certified professionals. A "complete appraisal" is performed by an individual who has been trained in appraisal analysis and methodologies and holds, at minimum, credentials from a state appraisal licensing agency with requirements for education, experience and adherence to professional standards. The professional appraiser performs a detailed analysis of not only the macro-economic conditions that effect property values, but the individual characteristics of the property being appraised as well as comparable properties that have sold. Most times, an actual viewing of the property takes place by the professional to discern property characteristics, both good (updated features such as flooring and kitchens, amenities such as pools or finished space in the lower or upper levels of the home) and bad (leaking roofs, signs of structural instabilities, location next door to detrimental conditions). Many times these factors are not available through any other source than a visual viewing of the property, and the existence of the various items may have a substantial impact on the value of the property. These appraisals are often reported on a standardized industry-recognized form, which allows for the consistent review and audit of appraisals.

Services short of this are known as a "valuations" or "evaluations" and may be computer assisted and performed by the lender, broker, or by someone that may have an interest in the transaction. Various levels of property analysis may be utilized in estimating the market value of a property. Automated Valuation Models (AVM's) are a form of computerized statistical modeling. They offer the least in human verification of real-time property condition and characteristics, as they rely primarily on public records and proprietary databases for information. AVMs are typically most reliable in areas of homogenous properties, and those that are not suffering from deferred maintenance or customized features. There are a wide variety of models in use across the U.S., with a wide range in the "confidence level" of the final value indicator. At their basic level, AVM's are operated by technicians with no valuation expertise or particular knowledge of the property they are appraising, nor the sales that are being used within the analyses. Typically the reports are transmitted in proprietary formats that vary from vendor to vendor, have limited detailing of the analysis and typically are not signed by an individual who could be held accountable for the conclusion.

The Title XI Financial Institutions Reform, Recovery and Enforcement Act of 1989 requires federally regulated financial institutions, such as federally insured banks, thrifts and credit unions, to use state certified or licensed appraisers to perform appraisals in connection with federally related transactions. However, guidelines promulgated by the five federal financial institution regulators in 1994 limited this requirement to residential transactions greater than \$250,000, meaning a transaction lower than \$250,000 is not required to be appraised by a state certified or licensed appraiser.

### **Size of the Appraisal Profession**

The real estate appraisal profession is dominated by small businesses. There are approximately 71,000 licensed and certified real estate appraisers throughout the United States<sup>1</sup>, and we estimate there are between 30,000-40,000 appraisers performing residential appraisals. Our research indicates the average

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<sup>1</sup> National Registry of Appraisers, Appraisal Subcommittee, Federal Financial Institutions Examinations Council, 2003.

size of an appraisal firm is 1.3 employees<sup>2</sup>. Many states offer appraisal trainee or appraisal registrations, which allow new appraisers to work their way toward a state license. We understand there are several thousand appraisal trainees or appraisal registrants throughout the country.

According to the most recent statistics compiled for the Small Business Administration (SBA) by the U.S. Census Bureau, there are approximately 11,110 firms that identify themselves as "offices of real estate appraisal," and 97.2 percent of these firms are defined as "small businesses" by the SBA<sup>3</sup>. There are also many licensed and certified appraisers that perform real estate sales or brokerage activities that also offer real estate appraisal services but do not call themselves offices of real estate appraisal.

In terms of the economic impact real estate appraisers bring to the economy, I will try to provide you with a general description -- There are approximately 11 million home sales per year, and we estimate that appraisals are performed in 90 percent of these transactions. The lending community also performs appraisal reviews for quality control purposes, and the industry standard for this amount is 20 percent of all loans in the portfolio. There are 4-6 million refinancing transactions requiring an appraisal for a total of 16-18 million transactions per year. The aggregate fees generated by appraisal assignments totals approximately \$5.1 billion per year.

### **RESPA Rule on Real Estate Appraisers**

The proposed rule on RESPA impacts real estate appraisers in two areas: 1) HUD wants lenders to provide consumers a simple, clear and firm Good Faith Estimate (GFE), at no or nominal cost, so they can better understand the charges, including appraisal costs, and use it to shop for a home loan and service providers before they become so invested in the process that they cannot back out; and 2) HUD wants to allow certain entities to assemble and offer consumers "guaranteed mortgage packages" (GMP) - a guaranteed mortgage interest rate and a guaranteed price for a complete package of settlement services, including appraisal services. Section II of the GMP would state that this package price covers all services that are necessary to close the loan. The packager would, however, be required to inform the borrower if certain designated items are not anticipated to be included as part of the package including lender's title insurance, the pest inspection, and appraisal. Under the GMP, any pest inspection report, credit report, and appraisal would be provided to the borrower upon the borrower's request.

According to HUD, the proposed rule would remove regulatory barriers to allow a package of settlement services to be made available to borrowers. These transactions, HUD argues, would be simpler and more transparent for borrowers, and would allow market forces, borrower shopping, and competition to further reduce the costs of settlement services. To accomplish this objective, first HUD would establish a carefully circumscribed safe harbor under RESPA for GMP transactions. Any entity (a lender, broker, other settlement service provider, or other entity), hereinafter a "packager," may qualify for the safe harbor as long as it offers a GMP. The packager must offer the GMP to a borrower following his or her submission of application information, but before the borrower's payment of any fee to the packager.

The proposed rule offered an example of how these arrangements might work with real estate appraisers in a GMP:

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<sup>2</sup> Appraisal Institute estimate from January 2003.

<sup>3</sup> Small appraisal businesses are defined by the SBA as those firms having less than \$1.5 million in annual receipts.

“For example, a packager could contract to have XYZ Appraisal Company complete all its appraisals for a given period for \$300 each rather than the \$350 the company normally charges for a standard appraisal. The packager could rely on that discounted contract price in pricing the package of guaranteed costs to the borrower. With their own costs negotiated in advance, packagers could disclose the cost for the entire package early in the borrower's mortgage shopping process with certainty, and the borrower then could compare different vendors' packages.”

We have a series of concerns relating to the HUD RESPA proposal which I will explain below:

**Concern 1: A primary assumption used by HUD to justify the proposed packaging arrangement is a false assumption.** In the Summary of the Rule's Benefits and Impacts on Small Business, HUD states:

*“Under packaging, those third party service providers (both large and small) who are currently charging high prices for their settlement services would experience reductions in the prices of their services....As in the case with the new GFE approach, firms suffering losers under packaging are originators and third party providers who are currently charging high prices for their services....”*

*“Still there is no strong reason to expect that locally-based small businesses could not continue providing third party settlement services under packaging, albeit at possibly lower prices and revenues, as noted above. Services that are local in nature (such as appraisals) will continue to be demanded under the packaging approach. Services that are national in nature and characterized by economies of scale (such as credit reporting) are already being conducted by larger firms on a national scale.”*

HUD's statement that appraisal service providers are charging “high prices” is contrary to research indicating the appraisal component of settlement service costs has not seen a pricing increase in over a decade. In fact, appraisal fees for many services have decreased in real dollars due to technology and efficiencies in the market and because the appraisal service market is highly competitive.

We asked our members whether their fees have gone up, gone down or stayed the same since 1993, and 80 percent of our members responded that their fees have stayed the same or gone down for an appraisal of a “typical residential property.”

During this time, appraisers have increased their efficiency. According to our members, in 1993, 66 percent of appraisers performed a “typical residential appraisal” in two days or less. In 2003, 86 percent of appraisals were completed in two days or less.

**Concern 2: Through the promotion of a guaranteed price for an assemblage of settlement services by HUD, we expect the market for real estate appraisal service providers to contract, resulting in less capacity to service the continuing demand, particularly in non-metropolitan areas.** As a result, any potential temporary cost decreases from volume discounts will be negated by contraction of the real estate appraisal industry.

HUD estimates that consumers will save \$3.6 billion annually under its proposal from settlement service industries, including real estate appraisals. However, in making this estimation, HUD not only has failed to acknowledge market forces are currently lowering appraisal costs, but has exacerbated the problem by creating a disincentive to perform mortgage appraisal assignments.

Even with all of the efficiencies adopted by appraisers in recent years, it is not feasible for appraisers to continue to provide consistent, quality appraisals for less, especially if they are unable to charge market prices for complex assignments. HUD has projected that appraisal fees will become less competitive<sup>4</sup>. Because of this, we expect fewer appraisers will choose to deliver mortgage appraisals and will divert their services to more lucrative clients such as commercial appraisal, eminent domain, estate appraisal and expert witness services.

We surveyed our members on this issue<sup>5</sup>, asking them whether they would be inclined to divert their services to other clients and not accept mortgage assignments if the HUD rule were to be implemented. Fifty-nine percent of our members said they would be inclined to divert their services to other clients should the HUD rule go into effect.

Should this occur, finding a qualified appraiser, particularly in non-metropolitan markets, will be more difficult, which we understand is of great concern to many lenders, brokers and realty agents. According to our members, 12 percent of them perform 91-100 percent of their assignments for properties outside a metropolitan area. Meanwhile, 62 percent of our members perform in upwards of 30 percent of their assignments in non-metropolitan areas.

**Concern 3: The 10 percent tolerance outlined in the Proposed Rule is too restrictive.** Additionally, HUD has demonstrated itself to be misinformed on the issue of how real estate appraisers charge for services.

The proposed rule outlines a one-size-fits-all concept of a 10 percent tolerance, or upper limit, on charges provided by third-party service providers. While appraisal fees average around \$325 per assignment, fees can range from \$200-\$500 for a typical residential property. Appraisal assignments complex in nature routinely have fees 30 percent or higher due to the necessary additional research and analysis required.

The need for appraisers to have the latitude to quote fees on a job-by-job basis versus one fee for all “residential mortgage appraisals” is because no two appraisal assignments are alike. Not only are there vast variations of property types, ownerships and physical and locational factors that make each assignment unique, but for any given assignment there is a large array in types of analyses that can be requested due to the risk involved or loan type (i.e. FHA, VA, conventional, home equity) and report types requested by the lender.

In addition, we have great concern over HUD’s apparent lack of understanding of how appraisal fees operate. The Proposed Rule also makes the following statement in regards to the new GFE:

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<sup>4</sup> HUD states, “Still, there is no strong reason to expect that locally-based small businesses could not continue providing third party settlement services under packaging, albeit at possibly lower prices and revenues.”

<sup>5</sup> Survey was sent to 500 SRA members of the Appraisal Institute selected on a random basis.

*“The loan originator’s own fee/compensation, which is entirely within the originator’s control, can be stated with certainty, absent unforeseeable and extraordinary circumstances. Moreover, most third party costs such as appraisal charges, pest inspection fees, and tax/flood reviews, are fixed, and others, such as upfront mortgage insurance premiums, and title services and insurance, typically only vary depending on the value of the property or the loan amount.”*

HUD’s statement is incorrect as it pertains to real estate appraisers for the reasons I just stated. In addition, USPAP forbids an appraiser from accepting compensation for performing an assignment when it is contingent upon the amount of the value opinion.

**Concern 4: Limiting the upfront fee a borrower pays to the lender for the cost of preparing a GFE, and encouraging packaging arrangements will increase appraiser exposure to inappropriate client pressure.** The presence of volume contracts also creates moral hazards between appraisal clients and appraisers. These moral hazards should be avoided to insure the highest quality of appraisals.

Real estate appraisers, who are predominately small businesses, too often face inappropriate pressure from more dominant players in the mortgage financing transaction to produce unsupportable values that facilitate mortgage transactions. To capitulate to such pressure, an appraiser would violate the Ethics Rule of the USPAP<sup>6</sup>. However, failing to deliver a predetermined value under these circumstances often results in an appraiser being labeled “difficult to work with” or ostracized by clients in the marketplace. Unfortunately, many lenders and brokers seek out appraisers willing to conform to such unscrupulous demands.

Under the proposed reforms, lenders will likely face a dilemma on when to order a credit report and appraisal. Without advance payment, lenders who order a credit report and appraisal for a given loan will be liable for these costs and face exposure to loss should the borrower not go through with the loan, which is likely to happen with greater frequency when more shopping takes place. In order to limit their exposure, lenders are likely to defer ordering the credit report and appraisal until the borrower commits to the loan, which is likely to slow down the loan process. This is contrary to the mortgage industry’s desire to expedite the loan process.

Lenders that are exposed to unpaid fees are more likely to exert greater pressure on appraisers to “bring in the numbers” so those loans can be made with reduced “kick out” risk. Historically, the borrower pays the appraisal and credit report fee at the time of application. Under this arrangement, the appraiser was somewhat, although not entirely, insulated from collection and lender pressure issues since the money was held in escrow by the lender.

The existence of inappropriate client pressure has negative market consequences, as consumers face a greater threat of entering into a mortgage that is greater than the value of their new home. HUD and the lending community in general also face a threat as well, as these inaccurate appraisals do not accurately reflect the value of their mortgage portfolios and thus, increase the exposure to risk. Furthermore,

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<sup>6</sup> “An appraiser must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment. An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.” Uniform Standards of Professional Appraisal Practice, lines 258-261, p.7, 2003 Edition. Source: The Appraisal Foundation.

transactions that are consummated at sales prices above their true market value can then be used to further exacerbate the overvaluation of other homes - leading to over lending on homes that are being refinanced - not just those being transferred in ownership.

Another possibility is that, in an effort to limit their exposure to loans that do not close, lenders and third party settlement service providers who order credit reports and appraisals early in the application process may attempt to negotiate contingent fee arrangements with vendors. Such arrangements are not allowed by USPAP and are barred in many states<sup>7</sup>.

We surveyed our members on this issue, asking them whether they felt the proposed RESPA rule, if approved, would increase instances of client pressure. A resounding 91 percent of our members told us that it would. Our members are clearly concerned that volume contracts encouraged under the HUD rule will generate moral hazards which will result in lower quality appraisals, greater client pressure, lower financial stability for the nation's mortgage financing system and create a higher risk for consumers who may inadvertently commit to mortgages that are higher than the equity of their collateral. HUD should avoid creating a system that encourages volume contracts whereby a single client provides so much business that an appraiser's economic viability would be decimated upon losing that client.

**Concern 5: The HUD proposal inserts new players into the transaction and hides fees, which decreases the likelihood that savings will pass onto consumers and results in less consumer awareness.** The GMP agreement provides an exception to the Section 8 anti-kickback requirement for the packager as an incentive to enter into packaging arrangement. In order to get into the package, the service provider – including the real estate appraiser - will have to discount their services. Under these circumstances, larger appraisal firms, including the handful of national firms, will be able to discount more than the small appraisal businesses. Meanwhile, the packager will retain a "packaging fee." In our view, this merely shifts income from the provider, who is actually providing the service, to the middleman.

Allowing entities from within the package the ability to give referral fees and kickbacks is tantamount to slamming the door on small business' (appraisers) ability to economically compete with large businesses. Currently lenders purchase from servicers because of their ability to provide needed services at a competitive price. In order to economically provide referral fees and/or kickbacks the servicer would have to increase the price of the service – which is ultimately passed on to the consumer.

In our view, prices charged by packagers to administer and process GMPs will deflect any potential price savings that may occur in the appraisal service providers market, while inflicting severe market pressure on small appraisal firms.

HUD also states, "*A better shopper (the packager) is substituted for the borrower as the searcher for third party settlement services*". In reality, the lender currently does the shopping and engaging of the appraiser, not the borrower. In fact, for federally-related transactions the lender is required to engage the

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<sup>7</sup> "It is unethical for an appraiser to accept compensation for performing an assignment when it is contingent upon: 1) the reporting of a predetermined result (e.g., opinion of value); 2) a direction in assignment results that favors the cause of the client; 3) the amount of a value opinion; 4) the attainment of a stipulated result; or 5) the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose." Uniform Standards of Professional Appraisal Practice, lines 287-294, p.8, 2003 Edition. Source: The Appraisal Foundation.

appraiser. Under the current arrangement lenders actively “shop” for appraisal services, monitoring the fees charged because even though they often pass the cost on, they realize the borrower is looking at that cost and comparing it to what other lenders are quoting for the collateral valuation piece.

One additional point in this regard is that full disclosure of appraisal fees will also no longer exist under the HUD RESPA proposal, making it easier to hide appraisal fee markups. In light of recent mortgage fraud and predatory lending cases throughout the country, we believe it is important to honor safeguards which protect homebuyers from unscrupulous actors in the residential real estate market.

A fundamental goal of HUD’s proposal is to protect consumers. It is our view that the packaging of services is inconsistent with the goal of seeking greater disclosures of costs to consumers. Today, an appraisal is a vital part of home buying or refinancing. The appraiser is an independent third party delivering an unbiased opinion of value. Although the appraisal services necessary to close a loan may be primarily for the benefit of the lender, we believe consumers benefit from an appraisal ordered by the lender as well. HUD even recognizes this dual function in its proposed rule, stating:

“HUD believes however, that there are certain settlement services that are of specific interest and value to the borrower such as pest inspection, appraisal and the purchase of lender’s title insurance (which may affect the cost of owner’s title insurance).”

Under the GMP, the consumer will not know what kind of appraisal or valuation was performed, what was charged for those services, including whether any of these services were “marked up”, and ultimately how much they are paying for these services at closing. Packaging may help simplify the process from the lender’s perspective; however, the type of valuation performed and borrower’s fees will be obscured. We believe the borrower deserves more protection.

As I stated before, there are many different types of appraisal or valuation services that can be provided during a mortgage application. Various levels of property analysis, ranging from AVMs to a complete interior appraisal, may be utilized in estimating the market value of a property.

We believe the type of appraisal or valuation performed and the costs associated with these services should be transparent to the consumer since the consumer is paying for the service. As HUD has recognized, the appraisal has a specific interest to the borrower, and we feel those services, and that interest, should be fully disclosed.

There is also good reason for identifying the appraiser in the documentation for the consumer, as it helps create a system of ensuring the credibility for the work product and the accountability for the appraisal fees. Withholding or obscuring this information has the potential only to harm the borrower.

### **RESPA Suggestions**

To address these concerns, we offer the following suggestions:

**Suggestion 1:** Since packaging hides the type of valuation performed and obscures fees paid for valuation services from the consumer, **we encourage HUD to keep the contract appraisal fee under the GFE and out of the GMP.** Instead, we recommend that only the lender’s charge for reviewing or

administering the appraisal function be included in the GMP, not the amount paid to a contracted appraiser.

Under our recommendation, the fee that is paid to the contracted real estate appraiser would not be included with application, origination and underwriting services and any other lender required services or other fixed fees. This suggestion would allow the contract appraiser to be considered an entity outside of the GMP package. It is our view that a GFE disclosure is adequate for consumers, in particular if the costs are itemized. Under these circumstances, the consumer could be given a copy of the contract appraiser's invoice at closing to document the actual cost of service. Lender fees for appraisal administration would then be transparent, and could subsequently be compared to the quotes in the GMP package. At the same time, it is likely that the "price point" of the appraisal services will continue to decline if it is not in the GMP because of market forces and technology. HUD should allow these natural market forces to work.

We do not recommend doing away with the GMP proposal altogether. We simply call for the rule to be modified to allow for full disclosure of the appraisal fees, which HUD has admitted is of interest and value to the consumer.

**Suggestion 2: HUD should create an exemption for loans secured by historic and high-value or otherwise atypical properties with the requirement for accurate GFEs.** A "one-size-fits-all" approach to packaging is likely to lead to greater standardization of fees for appraisal services. Such standardized fees will not allow for the premiums that are warranted for complex appraisal assignments.

Since the appraisal fee must be communicated to the borrower by the financial institution very early in the relationship, time will not allow for fees to be reflective of such premiums that are typically charged for complex residential appraisal assignments - e.g., historic properties, high-value residences, etc. So as to not stifle the public's ability to use these types of properties for collateral, the proposed RESPA final rule should contain a "carve out" provision that allows more flexibility with fees that need to be charged for these types of unique appraisal services. Failure to do so would result in higher fees being quoted up front to allow for the completion of appraisal on atypical properties, or worse, if fees were not commensurate with the difficulty in completing the analysis, it is more likely that a "sub-par" analysis would be completed, to the detriment of both the lender and the consumer.

**Suggestion 3: HUD should include language in the final rule that prohibits inappropriate client pressure, make such policies accessible to appraisers, and require lenders to pay for all third-party services regardless of loan status.** The proposed packaging of services will concentrate significant purchasing power among the largest national financial institutions and management companies. Coupled with the proposed requirement that definitive, upfront fee schedules be provided to prospective borrowers, these national purchasers of appraisal services will be able to exert unbridled pressure on independent fee appraisers. Therefore, it is critical that safeguards be included in the proposed RESPA final rule that squarely address the most critical and vulnerable areas for the appraisal community - client pressure and contingent fees. Both of these practices should be prohibited in the final rule through the inclusion of clear and unambiguous language.

HUD Mortgagee Letter 94-54 contains a section on "Pressure on Appraiser and Conflicts of Interest." This section states:

"The Department requires that appraisers chosen under this new procedure not be supervised or directed by any loan officers or loan production personnel. Chosen appraisers should be supervised by the lender's underwriting or management personnel. Instances of undue pressure or influence on an appraiser reported to HUD will result in appropriate disciplinary actions against the lender involved."

Although we are pleased HUD has accepted that undue pressure of appraisers exists, we feel it could do much more by providing more information to appraisers on the existence of HUD's requirements. Most appraisers are simply unaware that HUD will accept complaints against lenders applying undue pressure. Typically, they do not know whom to contact within HUD, and HUD has established no procedure on how the appraiser is to submit his/her complaint.

We encourage HUD to establish a system that informs appraisers of HUD's requirements relating to inappropriate client pressure on appraisers and establishes common procedures for conducting investigations of complaints issued by appraisers. Such procedures would tell the appraiser what information must be provided in the complaint and whether HUD will hold the appraiser's identity in confidence during the investigation. HUD could even establish a "hotline," or clearly specify a staff member who could handle such investigations and make this known to licensed and certified appraisers. HUD, when receiving these complaints, should provide sufficient resources to conduct thorough investigations and conduct effective enforcement activities.

HUD should also prohibit any and all contingent fee arrangements in connection with appraisals. We recommend language be included in the final rule mirroring comments in the Management section of the Ethics Rule of USPAP wherein it is recognized that it is unethical for an appraiser to accept compensation for performing an assignment when the assignment is contingent upon (1) the reporting of a predetermined result; (2) a direction in assignment results that favors the cause of the client; (3) the amount of the value opinion; (4) the attainment of a stipulated result; or (5) the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose. Including the above language in the proposed RESPA final rule would parallel what is now part of most state law.

On behalf of the Appraisal Institute and American Society of Appraisers, thank you for the opportunity to explain this issue to the Committee. I would be happy to answer any questions Committee members may have.

### **About the Appraisal Institute and American Society of Appraisers**

The Appraisal Institute is the acknowledged worldwide leader in residential and commercial real estate appraisal education, research, publishing and professional membership designation programs. Its extensive curriculum of courses and specialty seminars provides a well-rounded education in valuation methodology for both the novice and seasoned practitioner. Members of the Appraisal Institute form a network of highly qualified professionals throughout the United States and abroad. They are identified by their experience in and knowledge of real estate valuation and by their adherence to a strictly enforced *Code of Professional Ethics and Standards of Professional Appraisal Practice*.

The American Society of Appraisers is an organization of appraisal professionals and others interested in the appraisal profession. International in structure, it is self-supporting and independent. The American Society of Appraisers is the oldest and only major appraisal organization representing all of the disciplines of appraisal specialists, including real property. ASA is diligent in its efforts to strengthen and uphold the *Principles of Appraisal Practice and Code of Ethics* in order to protect the client.

We appreciate this opportunity to provide our official comments for the record. Should you have any questions, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute at 202-298-5583, [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org) or Ted Baker, Executive Vice President, American Society of Appraisers at 703-733-2109, [tbaker@appraisers.org](mailto:tbaker@appraisers.org).