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Barbara Walker, Executive Director  
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August 17, 2012

Colorado Department of Human Services  
Elder Abuse Task Force  
1525 Sherman St., 7th Floor  
Denver, CO 80203

Re: SB 78 Elder Abuse Task Force: Strategies and Recommendations

Dear Sirs and Mesdames:

The Independent Bankers of Colorado (“IBC”) is a non-profit trade organization exclusively representing the interests of Colorado’s community banking industry throughout the state. IBC member community banks fully support efforts to provide reasonable protection to at-risk adults, but wish to bring to your attention some concerns we have with your recommendations:

1. In implementing the requirements of CRS 6-21-103 to make consent forms available to customers who wish to allow financial institutions to provide financial information to appropriate authorities in connection with suspected exploitation, our members report that many customers, especially those 60 years of age and older, have expressed extreme opposition to being asked to give those institutions that sort of power. Many customers seem to believe that financial institutions and state agencies are attempting to gain unfair control over sensitive private financial information and have returned the forms with various sorts of written comments ranging from simple displeasure to profane suggestions of what the institution should do with these forms. The vast majority of customers simply do not reply to their bank sending the form to them. Not one bank IBC surveyed has received a completed consent form, as you note in the captioned document. We anticipate that as long as “at-risk adult” continues to include *everyone* who reaches the age of 60, or even 70, you can expect strong opposition from elder support groups for any procedures making it easier for state agencies to access their members’ financial information, as has occurred in the past. You may also remember, in years past when legislation was introduced to protect at risk adults from financial exploitation, testimony from the disabled community who were strongly opposed to an assumption in law that anyone with a disability should be considered to be an at risk adult. They found such scrutiny by their financial institution to be offensive and an invasion of their *personal* as well as financial privacy.

2. As we have repeatedly expressed in the past, our biggest concern is the effect mandatory reporting will have on financial institutions. Unless a provision is included which gives those institutions immunity from claims based on a failure to report as well as from those based on reporting suspected

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abuse, as now exists, these entities will be compelled to report any possible situation which someone might later argue constituted signs of exploitation. It would be unfair to place financial institutions into a position where they could expect to be sued in virtually every case of financial exploitation based on a theory that some teller should have recognized what was occurring and reported it. We will strongly oppose any mandatory reporting requirement unless an appropriate immunity provision is included which protects our members for good faith failure to report as well as good faith reporting. We believe that similar opposition can be expected from all groups subject to mandatory reporting. In addition, since lack of such a provision will necessarily mean that reports of suspected exploitation will be greatly increased, this would place greater burdens on investigating agencies and courts in dealing with these reports and will likely engender greater opposition from elder support groups and persons with disabilities support groups seeking to protect their members from unnecessary examinations of their members' financial affairs.

3. The captioned document also recommends exploring methods to permit investigating agencies to reach financial records without legal process. While we believe it may be possible to do this without placing undue risk on financial institutions for claims of privacy right violations, we think it is important to note that any such provision will need to be drafted in a manner that takes into account privacy rights under federal law, particularly Federal Reserve Regulation P, as well as the state privacy laws specifically referenced in your report. In addition, we are concerned about the additional time and cost to financial institutions which such a procedure might entail, especially for small banks. We also think it is important that you consider the opposition this might create from elder support groups and persons with disabilities support groups if agencies are permitted routine access to financial information for all those over 60 or 70 years of age, as well as the disabled community, based on nothing more than an unsubstantiated claim or concern of exploitation.

Thank you for considering these comments.

Very truly yours,

**The Independent Bankers of Colorado**

A handwritten signature in cursive script, appearing to read "Barbara Walker", written in black ink.

Barbara Walker, Executive Director