

August 28, 1992

Richard Ottow, Commissioner
State of Wisconsin
Office of the Commissioner of Credit Unions
Suite 200
6300 University Avenue
Middleton, WI 53562-3416

Re: Section 701.21(c)(8) of NCUA's Rules and Regulations (Your July 23, 1992, Letter)

Dear Mr. Ottow:

You have asked whether it is permissible under Section 701.21(c)(8) of NCUA's Regulations (12 C.F.R. 701.21(c)(8)), for a credit union director to also provide direct legal services in connection with real estate loan closings as a salaried credit union employee. Such activity is permissible under NCUA's Regulations.

BACKGROUND

One of the board members of Milwaukee Metropolitan Credit Union (CU), a state-chartered federally insured credit union, is also a CU employee who provides legal services in connection with real estate closings. In his capacity as a CU employee, this individual ensures that closing documents are executed properly and title insurance requirements are met. He is not a member of the executive or loan committees which approves mortgage loans and except for his involvement in the closing process, is not otherwise involved in the real estate loan approval process.

ANALYSIS

Section 701.21(c)(8) of the NCUA's Rules and Regulations provides:

A Federal credit union shall not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee, or other compensation is to be received by the credit union's directors, committee members, senior management employees, loan officers or any immediate family members of such individuals in connection with underwriting, insuring, servicing, or collecting the loan or line of credit. However, salary for employees is not prohibited by this Section. . . . (Emphasis added.)

Section 701.21(c)(8) is applicable to all federally insured credit unions. (See Section 741.3 of the Regulations.) This section does not prohibit a director from providing legal services in connection with real estate loan closings as a salaried credit union employee. Our opinion would be different if the director was providing these services as an outside counsel and not as a credit union employee.

Sincerely,

Hattie M. Ulan
Associate General Counsel

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