

April 4, 2000

Eric C. White, Esquire
CPFCU Building, Suite 210
1100 Clinton Road
Jackson, Michigan 49202

Re: Membership Status and Eligibility for Election to be a Director.

Dear Mr. White:

You have asked for a legal opinion on whether a recently elected director was a member of the federal credit union (FCU) at the time of his election. The issue you raise is a question of fact that we cannot determine based on the information provided. We have provided some guidance below that you may find helpful.

You state that a recently elected director joined the FCU in 1994, but that his membership card does not specify how he qualified. Prior to the election, an opposing candidate challenged the individual's eligibility but the nominating committee determined he was eligible. The basis for the nominating committee's determination remains unclear, and you note that, after the individual was elected, the issue of his eligibility was again questioned. You conclude that, because the individual's son has been an employee of the FCU since July 1999, the individual was within the field of membership from that date and, therefore, "was a 'member' at least as of July 1999, validating his election."

An individual must be a member to be elected to serve as a director. 12 U.S.C. §1761(a). It is not sufficient to be within the field of membership. Membership requires compliance with the membership requirements in the Federal Credit Union Act and the FCU Bylaws. 12 U.S.C. §1759(a); FCU Bylaws, Article II. Our view is, if the individual was not properly a member when elected but merely within the field of membership, his election was not valid. The attached letter from Hattie M. Ulan to Peter M. Forman dated April 30, 1991, discusses options available to the board of directors when a nonmember is elected to the board.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/MFR:bhs
SSIC 3700
00-0340
Enclosure
cc: Region IV

