

December 3, 2003

D. Kevin Jones, President/CEO
MidFlorida Federal Credit Union
P.O. Box 8008
Lakeland, Florida 33802-8008

Re: Federal Credit Union (FCU) Officials' Use of Business Equipment.

Dear Mr. Jones:

You have asked if an FCU's volunteer officials may use FCU-owned computers and cellular phones or receive reimbursement for personal equipment or Internet access when used to perform their official duties. Yes, officials may use FCU equipment or receive reimbursement from the FCU when using personal equipment if they are carrying out the responsibilities of their position and the reimbursed costs are reasonable and proper for performing their duties.

In the past few years, your FCU has relied on the Internet and cellular phones to communicate with and to transmit information to the board of directors. Due to the security software and memory needed to conduct secure transmissions over the Internet, the FCU has provided FCU-owned computers, printers, and high-speed transmission lines to board members for their homes. In addition, the FCU recently required all board members and senior managers to carry cellular phones. The FCU either provides the phone or reimburses the FCU for the base cost of a personal phone.

No official, other than the designated compensated official, "may receive compensation for performing the duties or responsibilities of the board or committee position to which the person has been elected or appointed." 12 C.F.R. §701.33(b)(1). The term "compensation," however, excludes:

[P]ayment (by reimbursement to an official or direct credit union payment to a third party) for reasonable and proper costs incurred by an official in carrying out the responsibilities of the position to which that person has been elected or appointed, if the payment is determined by the board of directors to be necessary or appropriate in order to carry out the official business of the credit union, and is in accordance with written policies and procedures, including documentation requirements, established by the board of directors.

12 C.F.R. §701.33(b)(2)(i). The board of directors, therefore, must determine if the cost of the equipment provided to officials for use in their homes is necessary or appropriate in carrying out their official duties and if such costs are reasonable and proper. The board also must have written policies that address the parameters of any reimbursements to officials.

For additional discussion of the issue of the permissibility of benefits for officials, you may find it helpful to review previous legal opinion letters available on NCUA's web site, www.ncua.gov, including the following letters issued by this office, OGC 91-0215, dated May 1, 1991 (meal reimbursement); OGC 92-0507, dated June 10, 1992 (impermissible reimbursement for baby sitting and vacation time); OGC 99-0621, dated November 8, 1999 (health insurance); and OGC 00-0508, dated May 24, 2000 (safe deposit boxes).

Sincerely,

Sheila A. Albin
Associate General Counsel

OGC/CJL:bhs
03-1053