

March 22, 2000

Andrew Kaminski

Re: FOIA Appeal, your letter dated March 1, 2000

Dear Mr. Kaminski:

On January 6, 2000 you filed a Freedom of Information Act (FOIA) request for the following: a list of all conservatorships in Region I over the past five years; all letters appointing advisory board members in the conservatorship cases listed; and the last Report of Officials for each of the credit unions before it was conserved. On January 7, 2000, you sent a letter clarifying your request and noted your request included a list of all board members appointed in conservatorship cases. Dianne Salva, NCUA's FOIA Officer, responded to your request on February 16, 2000. Ms. Salva listed the six credit unions that have been placed into conservatorship in Region I over the past five years. Enclosed with her response were the most recent Report of Officials for the credit unions listed and copies of letters appointing advisory board members for Central Brooklyn FCU and Polish and Slavic FCU. The Report of Officials for Central Brooklyn FCU was unintentionally left out of the enclosures. It is now enclosed. The home addresses, telephone numbers and account numbers for individuals on the Report of Officials have been redacted pursuant to exemption 6 of the FOIA, 5 U.S.C. 552(b)(6). Although you only request letters appointing advisory board members in your January 6 request, you specifically mention board members in your January 7 letter. Lists of the board members appointed for Central Brooklyn FCU and Polish and Slavic FCU, upon return of the credit unions to their respective memberships, are now enclosed.

We received your appeal on March 8, 2000. Before addressing the specifics of your letter, some general information about conservatorships may be helpful. Advisory board members are not appointed in all conservatorship cases. A decision on whether to appoint advisory board members is made on a case-by-case basis by the NCUA. The advisory board members serve during the pendency of the conservatorship and do not have the authority to operate the credit union. They serve in an advisory capacity only. When the NCUA Board makes a decision to take a credit union out of conservatorship and return it to the members, it appoints a new board of directors. NCUA may include members of

the advisory board in the new board. Again, decisions are made on a case-by-case basis. Not all conserved credit unions are returned to the members for operation. If a conserved credit union is not returned to the members, it is either liquidated (with the possibility of a purchase and assumption) or merged into another credit union. In those cases, no new board members are appointed.

Your appeal letter indicates that we provided information on only one credit union that had been placed into conservatorship, other than Polish and Slavic FCU, namely Central Brooklyn FCU. Ms. Salva's letter named the four other credit unions in Region I that have been placed into conservatorship within the last 5 years. They are: Nationwide Tenants FCU; CEDC FCU; Northeastern Conference FCU; and Brooklyn Postal CU. However, there were no advisory board members appointed in any of these conservatorship cases. In addition, none of these credit unions was returned to the membership. These four credit unions were either merged or liquidated; no new board members were appointed.

# Exemption 6

As noted above, enclosed is the last Report of Officials (prior to conservatorship) for Central Brooklyn FCU. The home addresses, telephone numbers and account numbers of individuals named in the report have been redacted pursuant to exemption 6 of the FOIA. Exemption 6 protects information about an individual in "personnel and medical files and similar files" where the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). The courts have held that all information that applies to a particular individual meets the threshold requirement for exemption 6 protection. United States Department of State v. Washington Post Co., 456 U.S. 595 (1982). Once a privacy interest is established, application of exemption 6 requires a balancing of the public's right to disclosure against the individual's right to privacy. Department of the Air Force v. Rose, 425 U.S. 352, 372 (1976). The redacted personal information about FCU officials meets the threshold requirement for exemption 6 protection. There is minimal, if any, public interest in disclosing this personal information. The individuals' privacy interests outweigh any public interest in disclosure.

Pursuant to 5 U.S.C. 552(a)(4)(B), you may seek judicial review of this determination by filing suit against the NCUA. Such a suit may be filed in the United States District Court in the district where your principle place of business

is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

Robert M. Fenner

General Counsel

Enclosures

GC/HMU:bhs

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