

June 5, 1998

Re: FOIA Appeal, your letter dated May 5, 1998

Dear:

This is in response to your May 5, 1998 appeal pursuant to the Freedom of Information Act (FOIA). On March 22, 1998, you requested copies of the personnel certificates constructed from two National Credit Union Administration vacancy announcements that closed on February 27, 1997. You noted that the announcements were for credit union examiner positions (job series CU 580) in St. Louis, MO and were numbered NCUA 1-7-4001 and NCUA 1-7-4002. On April 28, 1998, your request was denied. We received your appeal on May 8. Your request is granted in part and denied in part. The responsive documents are being released with names and a telephone number redacted pursuant to exemption 6 of the FOIA (12 U.S.C. 552b(6)). The redacted documents are enclosed. Exemption 6 is discussed below.

Exemption 6 of the FOIA 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 which 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 information redacted consists of names and a telephone number of certain applicants for NCUA positions who were not offered jobs. These individuals have a strong privacy interest in maintaining their confidentiality. *See* Core v. United States Postal Service, 730 F.2d 946 (4th Cir. 1984). The Supreme Court has held that the public interest in exemption 6 information is to "shed light on an agency's performance of its statutory duties." United States Department of Justice v. Reporters Committee, 489 U.S. 749 (1989). The burden of establishing that disclosure would serve the public interest is on the requester. Carter v. United States Department of Commerce, 830 F.2d 388, 391 (D.C. Cir. 1987). No information regarding public interest was submitted with either your initial FOIA request or your appeal. We believe there is minimal, if any, public interest in disclosing the individual names found on the certificates. The individuals' privacy interests clearly outweigh any public interest in disclosure. Therefore, the names and telephone number continue to be withheld pursuant to exemption 6 of the FOIA. The rest of the certificates is being released.

Pursuant to 5 U.S.C. 552(a)(4)(B), you may seek judicial review of this determination by filing suit to enjoin NCUA from withholding the portions of documents withheld and to order production of the complete documents. Such a suit may be filed in the United States District Court in the district where you reside, where the your is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

Robert M. Fenner

General Counsel

GC/HMU:bhs

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