

January 5, 2000

Re: FOIA appeal, your letter dated December 9, 1999

Dear :

On October 15, 1999, you submitted a Freedom of Information Act (FOIA) request for an NCUA manual or procedural documents that "describe the specific method approved for manufacturing a certificate of insurance when a law enforcement agency requests one to be used at trial." Dianne Salva, NCUA's FOIA Officer, responded to your request on December 1, 1999. She stated that NCUA does not have a staff manual or other documentation for use in preparing a certificate of insurance. She enclosed two drafts of a certificate of proof of insured status. We received your December 9, 1999 appeal on December 20. You repeat your original request and note that you did not request the certificates. There are no documents responsive to your request.

NCUA does not have written instructions or procedures regarding preparation of a certificate of share insurance for use at trial. Generally, a certificate of proof in insured status will be prepared by the Regional Director responsible for the credit union in question. The certificate sets forth the name of the credit union and when it was approved for federal share insurance. This original, notarized certificate may be submitted at trial to show that the credit union is insured.

Federal agencies are under a duty to conduct a reasonable search for records when a FOIA request is received. Patterson v. Internal Revenue Service, 56 F.3d 832 (7<sup>th</sup> Cir. 1995). The question is not whether any documents responsive to the request might exist, but rather whether the search for any responsive documents was adequate. Steinberg v. United States Department of Justice, 745 F.2d 1476 (D.C. Cir. 1984). We have searched indexes of NCUA instructions and found no responsive documents. Requests for proof of insurability are handled on a case by case basis.

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 you reside, where your principle place of business is located, or the District of Columbia.

Sincerely,

Robert M. Fenner

General Counsel

GC/HMU:bhs

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