

GC/MFR:bhs

SSIC 6100

94-1102a

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FROM: Richard S. Schulman, Associate General Counsel

SUBJ: Nonstandard Bylaw Amendment - []

(December 5, 1994, Letter from [])

DATE: December 29, 1994

On November 4, 1994, in response to a memo from your office, we advised against approving the following language as part of a nonstandard bylaw amendment for

[].

A petitioner including agents who may be soliciting on his/her behalf, who, desires to seek nominations, must be independent of any other petitioner and his/her agents, and any nominating committee nominee.

We stated several reasons for recommending denial. They were: We have repeatedly stated that as long as an individual is a member of the FCU and has not been convicted of a crime involving dishonesty or breach of trust, he/she is eligible for election to the board of directors; it is unclear what "independent" as used in the amendment means and further, a [] suggested, how would the credit union be able to determine if petitioners and their agents are truly independent of each other.

[] of each other. [] of your office received a call from [] Chairman of the Board [] FCU and advised him that based on GC's recommendation, the Region would be denying that portion of the nonstandard bylaw amendment request. [] has written [] and this office requesting that we reconsider the decision.

[] states that the reason for the amendment is to prevent a group of potential nominees from distributing each others' petitions, thereby giving them an unfair advantage over a potential nominee who is acting alone. He suggests the following nonstandard amendment language to accomplish this goal:

A petitioner, including agents who may be soliciting on his her/belalf, who desires to seek nominations, cannot solicit signatures for any other petitioner.

We would again recommend against approving a nonstandard bylaw amendment of this nature. It goes against the general principles of democracy to restrict the right of one individual to campaign on behalf of another. The fact that the individual campaigning on behalf of another is also a potential nominee and is campaigning on his own behalf at the same time is irrelevant. This is a common, permissible practice in elections and not something that should be restricted through a bylaw amendment.