

December 15, 1997

Michele Patterson Ahrens, Esq.
Tredway, Lumsdaine & Doyle
10841 Paramount Boulevard
Downey, California 90241

Re: Conflict of Interest
Your letter dated October 2, 1997

Dear Ms. Ahrens:

You have asked whether a conflict of interest arises if two federal credit union directors participate in discussions and vote on the recognition of a labor union in which they also hold management positions. Under the Article XIX, §4 of the NCUA Federal Credit Union Bylaws, this situation would present a conflict of interest.

You state that the credit union's board of directors has been asked to "recognize" a labor union for the purpose of collective bargaining on behalf of the credit union's employees. The board of directors are to sign a Recognition Agreement and negotiate a Collective Bargaining Agreement with the labor union. The Collective Bargaining Agreement will establish the wages and work conditions of all the credit union's non-management employees and the amount of union dues that will be withheld from the employees paychecks. Two of the credit union's directors are also management level employees of the labor union.

Neither the Federal Credit Union Act nor the NCUA Rules and Regulations address the type of conflict of interest situation you presented. However, Article XIX, §4 of the NCUA Federal Credit Union Bylaws provides:

No director. . . shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interest of any corporation, partnership, or association (other than this credit union) in which he is directly or indirectly interested. In the event of the disqualification of any director respecting any matter presented to the board for deliberation or determination, such director shall withdraw from such deliberation or determination.

Our opinion is that this bylaw requires both directors, who are also part of the labor union's management, to recuse themselves from participating in any discussions or voting on any matters concerning the credit union's dealings with the labor union. The directors' dual positions create an inherent conflict of interest, namely, trying to negotiate the best agreement for the credit union while at the same time representing the interests of their employer, the labor union.

You may also wish to consider whether this situation constitutes a conflict of interest for the two directors under federal labor laws or state law.

Sincerely,

Sheila A. Albin
Associate General Counsel

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