

June 23, 1999

Gregory W. Homer, Esq.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

Re: Denial of Member Services, Your Letter dated March 31, 1999.

Dear Mr. Homer:

Tawana Y. James, Region II Director, has asked the Office of General Counsel to respond to your March 31, 1999, letter to her. Your letter contends that it is permissible to sanction a member who has acted in an abusive and threatening manner toward federal credit union (FCU) employees by restricting that member to holding one share in a share savings account. While we agree that an FCU may restrict services, including denying access to FCU premises or to services that involve personal contact with FCU employees, our view is that it is impermissible to restrict a member to holding one share in a share savings account. We view that action as denying a member the right to maintain a share account, one of the two basic rights, along with the right to vote at annual and special meetings, provided in the FCU Act. Denying members their basic rights is tantamount to expulsion for which the FCU Act requires a vote of the membership.

Your letter discusses the problems with a member that led the FCU to restrict the member's share account. You state the member has been abusive towards employees and the FCU is concerned about maintaining a safe environment for its employees and members. Your letter notes an earlier opinion from this office, a letter from Robert M. Fenner to Frank E. Berrish, dated February 20, 1991, that discusses this same problem. A copy is attached. This letter provides that, as an alternative to expulsion from membership, an FCU can adopt a policy restricting the availability of certain services provided there is a rational basis for doing so. One alternative is a policy denying abusive members access to FCU premises and to services involving personal contact with FCU staff. The letter cautions that the policy should be in writing and the general membership should be aware of it before it is enforced against any individual. It also reiterates our long-standing view that all FCU members have two basic rights: to maintain a share account and the right to vote at annual and special meetings.

Our view is that the "remedial action," as you term it, taken against the member of restricting the share account to one share is in conflict with a member's right to maintain a share account and a remedy that does not address the particular problem. The basic privilege of maintaining a share account includes the right to make deposits into and withdrawals from that share account. Limiting a

Gregory W. Homer, Esq.

Page Two

member's share account to one share has no impact on an FCU's working environment but, because it denies the member a basic privilege of membership, equates to a constructive expulsion of the member. To expel a member, the FCU Act requires a vote of two-thirds of the members present at a special meeting called for that purpose. 12 U.S.C. §1764(a). An FCU cannot adopt a policy that circumvents the requirements of the FCU Act.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/MFR/SAA:bhs

SSIC 3601
99-0435
Enclosure

cc: Region II