

February 15, 2001

(b)(6)

Re: FOIA Appeal, your letter dated January 12, 2001

Dear (b)(6):

We received your January 12, 2001, Freedom of Information Act (FOIA) appeal on January 18, 2001. This is an appeal of Dianne Salva's (NCUA's FOIA Officer) response to your November 20, 2000, FOIA request. Ms. Salva noted that NCUA had no records responsive to your request. She did, however, enclose the search records generated by your request. You appear to be questioning the adequacy of the search made pursuant to your request. As explained below, we believe the search for records was adequate. Your letter also states it is an appeal of your request for a waiver of fees associated with your requests of November 18, 19, and 20. NCUA imposed no fees for these requests; therefore your request for a waiver of fees is moot. You also set forth several questions regarding earlier FOIA requests and appeals you have made to NCUA. We have attempted to address some of your concerns below.

Adequacy of Search, Search Declaration and Appeal Rights

You requested records falling into several categories concerning Germans and their infiltration of the United States government and involvement in various governments around the world. NCUA is an agency of the United States government responsible for chartering federal credit unions, and insuring and supervising federal and some state-chartered credit unions. Your FOIA request concerns matters completely outside of NCUA's area of operation. Ms. Salva did contact NCUA's regional and central offices and forwarded a copy of your request to them. As indicated by the search records enclosed with Ms. Salva's response, no responsive records were found.

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 (7th 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). Given the subject matter of your request and the responsibilities of NCUA, we believe a reasonable search was conducted. You request a search declaration in your appeal. There is no requirement that a search declaration be provided at this point in the administrative process.

You also note in your appeal that Ms. Salva did not inform you as to your appeal rights. A paragraph on appeal rights was inadvertently left out of Ms. Salva's response. We have, however, processed and responded to your appeal pursuant to Section 792.28 of NCUA Rules and Regulations.

Prior Requests and Appeals

You state in your appeal that you had not received a response to your January 2, 2001, FOIA request. Ms. Salva responded to your January 2nd request on January 17, 2001. We have received your January 26th appeal to Ms. Salva's response. The response to this appeal is being processed. You asked about the status of your January 1, 2001, appeal of the December 19, 2000, response from the Office of Inspector General denying your request for an investigation. Since this matter does not involve FOIA, we have forwarded that part of your inquiry to the Office of Inspector General. Lastly, you state that you have not received responses to your administrative appeals of June 12, 2000, and July 17, 2000. I responded to your June 12th appeal on July 11; Ms. Salva responded to your July 17th letter on August 16th. Enclosed are copies of the July 11, 2000, and August 16, 2000, responses.

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 your principle place of business is located, the District of Columbia, or the Eastern District of Virginia.

Sincerely,

Robert M. Fenner
General Counsel

Enclosures
GC/HMU:bhs
01-0121
SSIC 3212
FOIA 01-58
□