

August 1, 2002

Kyle Markland  
Affinity Plus Federal Credit Union  
175 West Lafayette Road  
St. Paul, MN 55107

Re: FOIA Appeal, your appeal dated July 15, 2002

Dear Mr. Markland:

On June 4, 2002, you filed a Freedom of Information Act (FOIA) request with NCUA's Region V Office. Region V forwarded the request to Dianne Salva, NCUA's FOIA Officer, for a response. You requested copies of all documentation and correspondence used in NCUA's consideration of the removal of Affinity Plus Federal Credit Union Foundation as a select employee group. Ms. Salva responded to your request on July 8, 2002, enclosing sixteen responsive documents. One four-page document was withheld in full. There were a few redactions made to the responsive documents. Exemption (b)(8) was noted as the exemption applicable to the redactions. You question the applicability of exemption (b)(8) to the redacted material found on the March 1, 2002, letter of complaint sent to the NCUA Board and the March 28, 2002, letter from Chairman Dollar. You note that the redacted information appears to be the name and address of the author of the March 1, 2002, letter and the recipient of the March 28, 2002, letter. We agree that exemption 8 is not the appropriate exemption for these redactions. Exemption 6, rather than exemption 8, is the appropriate exemption. Your appeal is denied in that the redacted information continues to be withheld. A brief explanation of exemption 6 follows.

#### Exemption 6

The information withheld pursuant to exemption 6 (name, address and other identifying information) identifies the author of one letter and the recipient of another letter. Exemption 6 protects information about an individual in "personnel and medical files and similar files" where the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). Courts have held that individuals who write to the government expressing personal opinions generally do so with some expectation of confidentiality; their identities, but not necessarily the substance of their letters, ordinarily should be withheld. See Strout v. United States Parole Commission, 40 F.3d 136, 139 (6<sup>th</sup> Cir. 1994). We note that only the identity of the correspondent, and not the substance of the letter, was withheld. Once a privacy interest is established, application of exemption 6 requires a balancing of the public's right to disclosure against the individual's right to privacy. Department of the Air Force v. Rose, 425 U.S. 352, 372 (1976). The withheld information meets the requirement for exemption 6 protection. There is minimal, if any, public interest in disclosing personal information identifying a correspondent. Therefore, the information continues to be withheld.

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 principal place of business is located,

the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

Robert M. Fenner  
General Counsel

GC/HMU:bhs  
02-0750  
SSIC 3212  
FOIA 02-262