



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

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4060
July 12, 1985

Mr. Joseph J. Mino
President
Redemptorist Federal Credit Union
P.O. Box 72
Bellaire, TX 77401

Dear Mr. Mino:

This is in reply to your letter dated May 12, 1985, concerning deregulation and compensation of officials in Federal credit unions (FCU). Specifically, you ask: (1) ~~whether it is possible for two board members to be compensated as officials,~~ and (2) what is meant by "deregulation" and how does it apply to credit unions?

As to your first question, you have noted an inconsistency between the Federal Credit Union Act and the NCUA Rules and Regulations. Section 112 of the Act was amended in 1982 to allow FCU's to choose which board member shall be compensated. Contrary to Section 701.33 of the Regulations, a board member other than the treasurer can now be compensated. However, only one board member as designated in the bylaws may be compensated as an official. Thus, in response to your question whether the treasurer and assistant treasurer may each be compensated as board members the answer is no. However, an assistant treasurer who is an employee of the credit union and also an elected member of the board may be compensated as an employee and maintain his position on the board even though there is another official on the board receiving compensation. Therefore, both the treasurer and assistant treasurer may be compensated, one as a board official, the other as an employee.

In response to your second question, deregulation is the process of eliminating regulatory controls. Deregulation has returned for FCU's authority previously exercised by the Government. FCU authority to establish dividend rates without regulated ceilings is an example of deregulation.

We appreciate your pointing out the inconsistency in our Regulations. Section 701.33 of the Rules and Regulations will be amended to conform to Section 112 of the Act.

I hope we have been of assistance.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel

FOIA 1/11/85 Part A-4.

Section 3. The executive officer shall preside at all meetings of the members and at all meetings of the board, unless disqualified through suspension by the supervisory committee. He shall countersign all notes of this credit union, and all checks, drafts, and other orders for disbursement of its funds as prescribed in article XV, section 2 of these bylaws. The executive officer shall also perform such other duties as customarily appertain to the office of the executive officer or as he may be directed to perform by resolution of the board not inconsistent with the Act and regulations and these bylaws.

Section 4. The ranking assistant executive officer available shall have and exercise all the powers, authority, and duties of the executive officer during the absence of the latter or his inability to act.

Section 5. The financial officer shall manage this credit union under the control and direction of the board unless the board has appointed a management official to act as general manager. Subject to such limitations, controls and delegations as may be imposed by the board, the financial officer shall:

(a) Have custody of all funds, securities, valuable papers and other assets of this credit union.

(b) Sign all notes of this credit union, and all checks, drafts, and other orders for disbursement of its funds.

(c) Provide and maintain full and complete records of all the assets and liabilities of this credit union in accordance with forms and procedures prescribed in the Accounting Manual for Federal Credit Unions or otherwise approved by the Administration.

(d) Within 7 days after the close of each month, prepare and submit to the board a financial statement showing the condition of this credit union as of the end of the month, including a summary of delinquent loans. He shall promptly post a copy of such statement in a conspicuous place in the office of the credit union where it will remain until replaced by the financial statement for the next succeeding month.

(e) Prepare and forward to the Administration such financial and other reports as the Administration may require.

(f) If so authorized by the board and within standards and limitations prescribed by the board, employ tellers, clerks, bookkeepers, and other office employees, and have the power to remove such employees.

(g) Perform such other duties as customarily appertain to the office of the financial officer or as he may be directed to perform by resolution of the board not inconsistent with the Act and regulations and these bylaws.

The board may employ one or more assistant financial officers, none of whom may also hold office as executive officer or assistant executive officer, and may authorize them, under the direction of the financial officer, to perform any of the duties devolving on the financial officer, including the signing of checks. When designated by the board, any assistant financial officer may also act as financial officer during the temporary absence of the financial officer or in the event of his temporary inability to act.

controls and delegations as may be imposed by the board, he shall:

(a) Have custody of all funds, securities, valuable papers and other assets of this credit union.

(b) Sign all notes of this credit union, and all checks, drafts, and other orders for disbursement of its funds.

(c) Provide and maintain full and complete records of all the assets and liabilities of this credit union in accordance with forms and procedures prescribed in the Accounting Manual for Federal Credit Unions or otherwise approved by the Administration.

(d) Within 7 days after the close of each month, prepare and submit to the board a financial statement showing the condition of this credit union as of the end of the month, including a summary of delinquent loans. He shall promptly post a copy of such statement in a conspicuous place in the office of this credit union where it will remain until replaced by the financial statement for the next succeeding month.

(e) Prepare and forward to the Administration such financial and other reports as the Administration may require.

(f) If so authorized by the board and within standards and limitations prescribed by the board, employ tellers, clerks, bookkeepers, and other office employees, and have the power to remove such employees.

(g) Perform such other duties as customarily appertain to the office of treasurer or as he may be directed to perform by resolution of the board not inconsistent with the Act and regulations and these bylaws.

The treasurer may be compensated for his services to such extent as may be determined by the board.

The board may employ one or more assistant treasurers, none of whom may also hold office as president or vice president, and may authorize them, under the direction of the treasurer, to perform any of the duties devolving on the treasurer, including the signing of checks. When designated by the board, any assistant treasurer may also act as treasurer during the temporary absence of the treasurer or in the event of his temporary inability to act.

SEC. 6. The board may employ a manager who shall not be a member of the board and who shall be under the direction and control of the board or of the treasurer as determined by the board. The manager may be assigned any or all of the responsibilities of the treasurer described in section 5 of this article.

The board may employ one or more assistant managers, none of whom shall be a member of the board. The board may authorize assistant managers under the direction of the manager, to perform any of the duties devolving on the manager, including the signing of checks. When designated by the board, any assistant manager may also act as manager during the temporary absence of the manager or in the event of his temporary inability to act.

SEC. 7. The board shall employ, fix the compensation, and prescribe the duties of such employees as may in the discretion of the board be necessary, and have the power to remove such employees, unless it has delegated these powers to the treasurer or manager; except that neither the board, the treasurer, nor the manager shall have the power or the duty to employ, prescribe the duties of, or remove any loan officer appointed by the credit committee, or necessary clerical and auditing assistance employed or utilized by the supervisory committee.

SEC. 8. The secretary shall prepare and maintain full and correct records of all meetings of the members and of the board, which records shall be prepared within 7 days after the respective meetings. The secretary shall promptly inform the Administration in writing of any change in the address of the office of this credit union or the location of its principal records. He shall give or cause to be given, in the manner prescribed in these bylaws, proper notice of all meetings of the members, and shall perform such other duties as he may be directed to perform by resolution of the board not inconsistent with the Act and regulations and these bylaws.

The board may employ one or more assistant secretaries, none of whom may also hold office as president, vice president, or treasurer, and may authorize them under direction of the secretary

part to be the appropriate style of the executive head of a federal government, constructed on the monarchial principle, and comprising in its organization several distinct kingdoms or other quasi-sovereign states; as was the case with the German empire from 1871 to 1918. "The proper meaning of emperor is the chief of a confederation of states of which kings are members." Cent. Dict., quoting Encyc. Brit. "In general, an emperor is the holder of a sovereignty extending over conquered or confederated peoples, a king is ruler of a single people. Thus * * * the 'King of England' is 'Emperor of India.'" Webster's New Int. Dict. Before the dissolution of the Austro-Hungarian empire in November, 1918, its monarch was known as the Emperor of Austria and King of Hungary.

EMPHASIZING FACTS. An instruction is said to emphasize facts which may contain sufficient facts to authorize a verdict, but nevertheless some fact or facts are selected from the evidence and mentioned in such a way as to indicate to the jury that they have especial potency when that is not justified. *Robinson v. Ross, Mo.*, 47 S.W.2d 122, 125.

EMPHYTEUSIS. In the Roman and civil law. A contract by which a landed estate was leased to a tenant, either in perpetuity or for a long term of years, upon the reservation of an annual rent or *canon*, and upon the condition that the lessee should improve the property, by building, cultivating, or otherwise, and with a right in the lessee to alien the estate at pleasure or pass it to his heirs by descent, and free from any revocation, re-entry, or claim of forfeiture on the part of the grantor, except for non-payment of the rent. Int. 3, 25, 3; 3 Bl.Comm. 232; Maine, Anc. Law, 29.

The right granted by such a contract, (*ius emphyteuticum*, or *emphyteuticarium*.) The real right by which a person is entitled to enjoy another's estate as if it were his own, and to dispose of its substance, as far as can be done without deteriorating it. Mackeld. Rom. Law, § 326.

EMPHYTEUTA. In the civil law. The person to whom an *emphyteusis* is granted; the lessee or tenant under a contract of *emphyteusis*.

EMPHYTEUTICUS. In the civil law. Founded on, growing out of, or having the character of, an *emphyteusis*; held under an *emphyteusis*. 3 Bl. Comm. 232.

EMPIRE. The dominion or jurisdiction of an emperor; the region over which the dominion of an emperor extends; imperial power; supreme dominion; sovereign command.

EMPIRIC. A practitioner in medicine or surgery, who proceeds on experience only, without science or legal qualification; a quack. *Parks v. State*, 159 Ind. 211, 64 N.E. 862, 59 L.R.A. 190.

EMPLAZAMIENTO. In Spanish law. A summons or citation, issued by authority of a judge,

requiring the person to whom it is addressed to appear before the tribunal at a designated day and hour.

EMPLEAD. To indict; to prefer a charge against; to accuse.

EMPLOI. In French law. Equitable conversion. When property covered by the *régime dotal* is sold, the proceeds of the sale must be reinvested for the benefit of the wife. It is the duty of the purchaser to see that the price is so reinvested. Arg. Fr. Merc. Law, 557.

EMPLOY. To engage in one's service; to use as an agent or substitute in transacting business; to commission and intrust with the management of one's affairs; and, when used in respect to a servant or hired laborer, the term is equivalent to hiring, which implies a request and a contract for a compensation, and has but this one meaning when used in the ordinary affairs and business of life. *Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, Ala.*, 64 S.Ct. 698, 703, 705, 321 U.S. 590, 88 L.Ed. 949; *Stocum Straw Works v. Industrial Commission*, 232 Wis. 71, 286 N.W. 593, 598; It is a synonym of "appoint". *Morris v. Parks*, 145 Or. 481, 28 P.2d 215, 216; *Board of Com'rs of Colfax County v. Department of Public Health*, 44 N.M. 189, 100 P.2d 222, 223, It is also synonymous with "hire." *Nat. Wooden Box Ass'n v. U. S.*, Ct.Cl., 103 Ct.Cl. 595, 59 F.Supp. 118, 119.

EMPLOYED. This signifies both the act of doing a thing and the being under contract or orders to do it. To give employment to; to have employment. *State v. Birmingham Beauty Shop, Ala.*, 198 So. 435, 436.

EMPLOYEE. This word "is from the French, but has become somewhat naturalized in our language. Strictly and etymologically, it means 'a person employed,' but, in practice in the French language, it ordinarily is used to signify a person in some official employment, and as generally used with us, though perhaps not confined to any official employment, it is understood to mean some permanent employment or position." The word may be more extensive than "clerk" or "officer," and may signify any one in place, or having charge or using a function, as well as one in office. *Hopkins v. Cromwell*, 89 App.Div. 481, 85 N.Y.S. 839.

One who works for an employer; a person working for salary or wages; applied to anyone so working, but usually only to clerks, workmen, laborers, etc., and but rarely to the higher officers of a corporation or government or to domestic servants. *Keefe v. City of Monroe*, 120 So. 106, 9 La.App. 545; *State ex rel. Gorczyca v. City of Minneapolis*, 174 Minn. 594, 219 N.W. 924.

Generally, when person for whom services are performed has right to control and direct individual who performs services not only as to result to be accomplished by work but also as to details and means by which result is accom-