



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

LS/SRB/YG:cch  
FCU #7840  
July 26, 1985

David A. Daetwyler, Esq.  
General Manager  
AT&T Family Federal Credit Union  
585 Waughtown Street, Suite 2A  
Winston-Salem, NC 27107

Dear Mr. Daetwyler:

This responds to your letter dated April 22, 1985, to Mr. John Ruffin, Regional Director, Region III (Atlanta) concerning the cashing of checks by nonmembers at Federal credit unions (FCU's). As more fully discussed below, we concur with the opinion stated in Mr. Ruffin's letter dated May 2, 1985.

You present two arguments in support of your position that Federal credit unions are authorized to cash checks for nonmembers.

First, you refer to Section 107(12) of the FCU Act (12 U.S.C. §1757(12)). This Section states, in pertinent part, that:

"A Federal credit union. . . shall have power--

\* \* \*

(12). . . to cash checks. . . for members. . .  
."

You state that:

"To read and interpret this provision of the Act as stating that 'cashing checks for nonmembers is prohibited' is an assumption that takes quantum leaps beyond what can be logically construed in statutory language as either illegal or unlawful under a strict interpretation of the provision in question."

In support of this statement you argue that:

"It is basic hornbook law that criminal statutes and statutes relied upon by the government to prove the breaking of some law (or to construe some illegal conduct) must be

FOIA Vol I Part I



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strictly construed. To do so in this instance results in the conclusion that the 'cashing of checks for nonmembers' is not an unlawful or illegal activity for a federally chartered credit union because the Act does not specifically state that 'cashing checks for nonmembers' is either illegal or unlawful." (Emphasis added.)

In response, you should first note that the FCU Act is not a criminal statute and, therefore, those principles of proper statutory interpretation of criminal statutes (to strictly construe) which you refer to in your letter are inapposite here. Rather, when interpreting laws such as the FCU Act a different set of interpretive rules apply.

This section of the statute is clear and unambiguous on its face. It simply states, "A Federal credit union . . . shall have power . . . to cash checks and money orders for members. . . ." Had Congress intended that FCUs be authorized to cash checks for nonmembers the language of the statute would not have been limited to "members." Further, the legislative history only refers to check cashing services for members and never contemplated providing services for nonmembers. Little room exists for an interpretation such as the one suggested in your letter.

Lastly, you argue that the authority to cash checks for nonmembers can be derived from the incidental powers provision, Section 107(16) of the FCU Act. However, your analysis fails to satisfy the legally required showing that the "incidental power" be linked to an express power. See Connell, supra at 298 citing Arnold Tours v. Camp, 472 F.2d 427, 432 (1st Cir. 1972).

In conclusion, it is our opinion, in light of the above, that your Credit Union is in violation of Section 107(12) of the FCU Act.

Sincerely,

(S)

STEVEN R. BISKER  
Assistant General Counsel

cc: RD Region III (Atlanta)  
R. A. Moss, President  
AT&T FCU