



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

GC/HMU:cch
3500
May 20, 1986

Office of General Counsel

Mr. Alan J. Salzano
Internal Auditor
State Employees Credit Union
P.O. Box 27744
Raleigh, NC 27611

Dear Mr. Salzano:

This is in response to your letter of March 18, 1986, to Michael Riley of NCUA's Office of Examination and Insurance concerning Part 748 (Report of Crime or Catastrophic Act) of NCUA's Rules and Regulations. As Mr. Riley noted in his April 2, 1986, letter to you, he referred your letter to our Office for a response.

You question the potential civil liability (i.e., for defamation) that a credit union may incur for reporting suspected criminal activity to appropriate governmental authorities. The following paragraph appeared in the preamble to Part 748:

"With respect to civil liability for defamation NCUA does not agree that Federal credit unions will be exposed to civil liability for making good faith reports. Federal credit unions have a common law duty to report and will have a statutory duty to report crimes and suspected criminal activity upon adoption of this amendment."

According to the common law, citizens have a duty to report crimes and if such reports are made in good faith, without malice and upon reasonable grounds, the reports will be privileged communications. In other words, the credit union would have a recognized defense against a defamation action provided the conditions stated above are satisfied. In addition, reports or communications made to public officers in the various departments of government (e.g., NCUA officials) are held to be privileged if they are relevant to the point at issue in official proceedings.

We certainly cannot guarantee that your Credit Union will not be the subject of a defamation suit, but if reports under Part 748 of the Regulations are made in good faith, without malice and

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upon reasonable grounds, such reports are privileged communications and a defense to such a legal action should exist. I suggest that if you desire a more specific legal opinion addressing the law in your state, you seek the advice of private counsel.

I hope that we have been of assistance.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

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cc: Office of Examination and Insurance