



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

JAN 16 1987

GC/RD:jrm
3212

Mr. Michael Johnson
Zulu, Inc.
732 N. Broad Street
New Orleans, Louisiana 70119

Dear Mr. Johnson:

This responds to your Freedom of Information Act appeal dated December 12, 1986. Specifically, you have questioned the withholding of the Examiner's report which accompanied the charter application for the proposed Zulu Federal Credit Union (FCU). After carefully reviewing your appeal, we have determined that the report is exempt pursuant to 5 U.S.C. §§552(b)(5) and Section 790.4(a)(5) of the NCUA Rules and Regulations (12 C.F.R. §790.4(a)(5)).

The document withheld is an intra-agency memorandum in which your charter application was considered. The document contains an Agency employee's evaluation of his investigation, recommendations and opinions. As such, the document represents predecisional deliberative material and the deliberative process of Agency officials. The document is exempt from public disclosure pursuant to 5 U.S.C. §552(b)(5) (exemption 5 of FOIA). 5 U.S.C. §552(b)(5) exempts:

inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

The courts have held that Exemption 5 was intended by Congress to protect consultative functions of government, and such protection extends generally to documents reflecting advisory opinions, recommendations and deliberations comprising part of the process by which governmental decisions and policies are formulated. Montrose Chemical Corp. V. Train, 491 F.2d 63 (D.C. Cir. 1974).

Pursuant to 5 U.S.C. §552(a)(4)(B), you may seek judicial review of this appeal determination by filing suit to enjoin NCUA from withholding the records. Such suit may be filed in the District

FOIA Vol IV Part 6.1.

Mr. Michael Johnson

JAN 16 1987
Page 2

Court of the United States in the district in which you reside,
in the district in which your principal place of business is
located, in the district in which the records are located
(Atlanta, Georgia), or in the District of Columbia.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

RD:sg