NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

August 17, 1987

C-C/HMU sg
3600

Office of General Counsel

Gerry Goodgion, Esq.
Executive Vice President and General Counsel
Connecticut Credit Union League, Inc.
P.O. Box 5001
Wallingford, CT 06492

Dear Mr. Goodgion:

This is in response to your letter concerning our opinion that dividends on regular share accounts of members who have defaulted on their loans or who have caused the FCU to suffer a loss because they entered bankruptcy may be reduced or otherwise eliminated.

It has been our stated opinion that a Federal credit union ("FCU") may have a policy to eliminate FCU services, including limiting or eliminating dividends on regular shares of a member who is in bankruptcy or who has defaulted on a loan, without violating the FCU Act or the National Credit Union Administration Rules and Regulations. However, the policy could not go so far as to preclude the member from voting at annual and special meetings.

Section 107(6) of the FCU Act (12 U.S.C. §1757(6)) states, in part, that:

> A Federal credit union . . . shall have power -
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> * * *
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> To receive from its members . . . (A) <u>shares which may be issued at varying dividend rates</u>; (B) share certificates which may be issued at varying dividend rates and maturities, and (C) share draft accounts authorized under Section 205(f); subject to the terms, rates and conditions as established by the board of directors, within limitations prescribed by the Board." (Emphasis added.)

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Vol V. J Limitation of Services due to Bankruptcy

Section 117 of the FCU Act (12 U.S.C. §1763) addresses dividends and states, in part, as follows:

> "At such intervals as the board of directors may authorize, and after provision of required reserves, the board of directors may declare a dividend to be paid at different rates on different types of shares, at different rates and maturity rates in the case of share certificates, and at different rates on different types of share draft accounts. . . ." (Emphasis added.)

In rendering our prior opinion in question here, we relied on the language highlighted above in Sections 107(6) and 117 of the FCU Act. We believe one can look to certain characteristics of the owners of shares when classifying "types of shares" for purposes of varying dividend rates. It is our opinion that an FCU can classify the shares of defaulters/bankrupts (debtors) differently from other shares and limit or completely eliminate dividends paid on such shares. Although it is our opinion that such treatment does not violate the FCU Act or NCUA Rules and Regulations, we do not render an opinion on any other applicable state or Federal laws.

I hope that we have been of assistance.

Sincerely,

STEVEN R. BISKER
Assistant General Counsel

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