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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

May 6, 1988

Office of General Counsel

Ms. Jeanne Pagano
Mt. Carmel Credit Union
P.O. Box 390
Pueblo, CO 81002

Re: Insurance Coverage of Church-Related Groups
(Your December 17, 1987, Letter)

Dear Ms. Pagano:

You have asked how NCUA account insurance covers three accounts: a \$25,000 account for St. Joseph Church; a \$90,000 account for St. Joseph Parish Council; and a \$75,000 account for a "St. Joseph Organ Fund." The St. Joseph Church and Parish Council accounts are each insured up to \$100,000 if these entities have ownership of the funds deposited. The "St. Joseph Organ Fund" account seems to be merely a special account established by St. Joseph Church. If that is so, the \$75,000 in this account would be aggregated with the \$25,000 in the other St. Joseph Church account for insurance purposes. If a separate group has been formed to raise money for an organ, however, and has ownership of the funds deposited, that group may establish a separately-insured account in its name.

Background

Mt. Carmel is a state-chartered, federally-insured credit union with this field of membership:

[A]ll Catholics and members of their immediate families within the Dioceses of Pueblo and Colorado Springs, Colorado, excluding the Catholic parishes in Douglas County, Colorado ("Herein Dioceses") [;] all Catholic organizations in the Dioceses and their employees and

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immediate families; all employees of Mt. Carmel Credit Union and their immediate families; membership fields of credit unions merged or purchased by Mt. Carmel Credit Union and their immediate families; any organization, incorporated or otherwise, composed for the most part of the same general group as the credit union membership and members of their immediate families ("Immediate family" means persons related by blood, marriage, or by adoption). Membership may include any small group which has a common bond of employment or association provided that the potential membership of the group does not exceed 1,000 persons or has been approved by the State Bank Commissioner.

The three accounts in question are:

1. St. Joseph Church

Tax ID.	123456
Account No.	2458
Balance	\$25,000

2. St. Joseph Parish Council

Tax ID.	123456
Account No.	9838
Balance	\$90,000

3. St. Joseph Organ Fund

Tax ID.	123456
Account No.	3874
Balance:	\$75,000

Relevant Legal Provisions

Section 201(a) of the Federal Credit Union ("FCU") Act [12 U.S.C. 1781(a)] provides that NCUA insures only "member accounts." Section 101(5) of the FCU Act [12 U.S.C. 1752(5)] defines "member account" and "account" to mean:

a share, share certificate, or share account of a member of a credit union of a type approved by the [NCUA] Board which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member, and, in the case of a credit union serving predominantly low-income members (as defined by the Board), such terms (when

referring to the account of a nonmember served by such credit union) mean a share, share certificate, or share draft account of such nonmember which is of a type approved by the Board and evidences money or its equivalent received or held by such credit union in the usual course of business and for which it has given or is obligated to give credit to the account of such nonmember, and such terms mean share, share certificate, or share draft accounts of nonmember credit unions and nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in Section 207 of this Act, and such terms mean custodial accounts established for loans sold in whole or in part pursuant to Section 107(13) of this Act: Provided, That for purposes of insured State credit unions, reference in this paragraph to "share," "share certificate" or "share draft" accounts includes, as determined by the Board, the equivalent of such accounts under State law.

Section 745.6 of NCUA's Rules and Regulations [12 C.F.R. 745.6] also provides:

Accounts of a corporation, partnership, or unincorporated association engaged in any independent activity shall be insured up to \$100,000 in the aggregate. The account of a corporation, partnership, or unincorporated association not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership or unincorporated association and, for account insurance purposes, the interest of each person in such an account shall be added to any other account individually owned by such person and insured up to \$100,000 in the aggregate. For purposes of this section, "independent activity" means an activity other than one directed solely at increasing insurance coverage.

These two examples of coverage under Section 745.6 are given in the Appendix to Part 745 [12 C.F.R. Part 745, Appendix D, Ex. 2, 3.]:

Question: Member C college maintains three separate accounts with

the same credit union under the titles: "General Operating Fund," "Teachers Salaries," and "Building Fund." What is the insurance coverage?

Answer: Since all of the funds are the property of the college, the three accounts are added together and insured only to the \$100,000 maximum.

* * *

Question: The men's club of X Church carries on various social activities in addition to holding several fund-raising campaigns for the church each year. The club is supported by membership dues. Both the club and X Church maintain member accounts in the same credit union. What is the insurance coverage?

Answer: The men's club is an unincorporated association engaged in an independent activity. If the club funds are, in fact, legally owned by the club itself and not the church, each account is separately insured to the \$100,00 maximum.

In sum, whether an account held in the name of an unincorporated association is separately insured by NCUA depends on: (1) whether there is a separate unincorporated organization with ownership of the funds deposited; (2) whether the organization is within the field of membership; and (3) whether the organization was formed solely to increase insurance coverage.

Analysis

St. Joseph Church, a "Catholic organization in the Dioceses of Pueblo and Colorado Springs, "is within the field of membership. It has not been formed solely to increase insurance coverage. Although not stated in your letter, it seems to be a separate unincorporated organization with ownership of the funds deposited. If so, its \$25,000 account is separately insured.

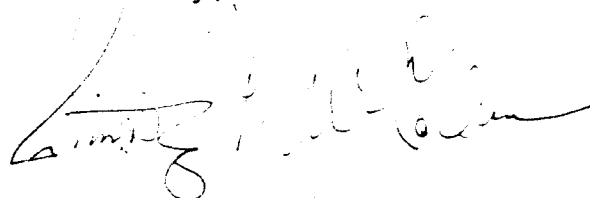
The St. Joseph Parish Council, an "organization, incorporated or otherwise, composed for the most part of [Catholics within the Dioceses]," is within the field of membership, and has not been formed solely to increase insurance coverage. Though also unclear from your letter, it seems, too, to be a

separate unincorporated organization with ownership of the funds deposited. If so, its \$90,000 account is separately insured.

The St. Joseph Organ Fund, however, seems merely a special account established by St. Joseph Church. If that is so, the \$75,000 in this account would be aggregated for insurance purposes with the other \$25,000 St. Joseph Church account. But if a separate group -- e.g., the "Organ Fund Committee" -- has been formed to raise the money, with ownership of the funds, it can establish a separately insured account.

Enclosed please find a copy of Part 745 of the NCUA Rules and Regulations [12 C.F.R. 745]. The Appendix to Part 745 and the brochure "Your Insured Funds" are currently being revised and should be available within the next few weeks.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy P. McCollum".

TIMOTHY P. McCOLLUM
Assistant General Counsel

Enclosure

§745.0 Scope.

The regulation and appendix contained in this Part describe the insurance coverage of various types of member accounts. In general, all types of member share accounts received by the credit union in its usual course of business, including regular shares, share certificates, and share draft accounts, represent equity and are insured. For the purposes of applying the rules in this Part, it is presumed that the owner of funds in an account is an insured credit union member or otherwise eligible to maintain an insured account in a credit union. These rules do not extend insurance coverage to persons not entitled to maintain an insured account or to account relationships that have not been approved by the Board as an insured account. Where there are multiple owners of a single account, generally only that part which is allocable to the member(s) is insured.

§745.1 Definitions.

(a) The terms "account" or "accounts" as used in this Part mean share, share certificate or share draft accounts (or their equivalent under state law, as determined by the Board in the case of insured state credit unions) of a member (which includes other credit unions, public units and nonmembers where permitted under the Act) in a credit union of a type approved by the Board which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member.

(b) The terms "member" or "members" as used in this Part mean those persons enumerated in the credit union's field of membership who have been elected to membership in accordance with the Act or state law in the case of state credit unions. It also includes those nonmembers permitted under the Act to maintain accounts in an insured credit union, including nonmember credit unions and nonmember public units and political subdivisions.

(c) The term "public unit" means the United States, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, municipality, or political subdivision thereof, or any Indian tribe as defined in Section 3(c) of the Indian Financing Act of 1974.

Part 745

Clarification and Definition of Account Insurance Coverage and Appendix

(d) The term "political subdivision" includes any subdivision of a public unit, as defined in (c) above, or any principal department of such public unit, (1) the creation of which subdivision or department has been expressly authorized by state statute, (2) to which some functions of government have been delegated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation improvement, levee, sanitary, school or power districts and bridge or port authorities, and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies, or boards within principal departments.

§745.2 General Principles Applicable in Determining Insurance of Accounts.

(a) General: This Part provides for determination by the Board of the amount of members' insured accounts. The rules for determining the insurance coverage of accounts maintained by members in the same or different rights and capacities in the same insured credit union are set forth in the following provisions of this Part. The Appendix provides examples of the application of these rules to various factual situations. Insofar as rules of local law enter into such determinations, the law of the jurisdiction in which the insured credit union's principal office is located shall govern.

(b) The regulations in this Part in no way are to be interpreted to authorize any type of account that is not authorized by Federal law or regulation or State law or regulation or by the bylaws of a particular credit union. The purpose is to be as inclusive as possible of all situations.

(c) Records: (1) The account records of the insured credit union shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim for insurance coverage is founded. Examples would be trustee, agent, custodian, or executor. No claim for insurance based on such a relationship will be recognized in the absence of such disclosure.

(2) If the account records of an insured credit union disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interest of other parties in the account must be ascertainable either from the records of the credit union or the records of the member maintained in good faith and in the regular course of business.

(3) The account records of an insured credit union in connection with a trust account shall disclose the name of both the settlor (grantor) and the trustee of the trust and shall contain an account signature card executed by the trustee.

(4) The interests of the co-owners of a joint account shall be deemed equal, unless otherwise stated on the insured credit union's records in the case of a tenancy in common.

(d) Valuation of trust interests: (1) Trust interests in the same trust deposited in the same account will be separately insured if the value of the trust interest is capable of determination, without evaluation of contingencies, except for those covered by the present worth tables and rules of calculation for their use set forth in §20.2031-7 of the Federal Estate Tax Regulations (26 C.F.R. 20.2031-7).

(2) In connection with any trust in which certain trust interests are not capable of evaluation in accordance with the foregoing rule, payment by the Board to the trustee with respect to all such trust interests shall not exceed the basic insured amount of \$100,000.

(3) Each trust interest in any trust established by two or more settlors shall be deemed to be derived from each settlor pro rata to his contribution to the trust.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor.

§745.3 Single Ownership Accounts.

(a) Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to \$100,000 in the aggregate.

(1) *Individual accounts.* Funds owned by an individual (or by the husband-wife community of which the individual is a member) and deposited in one or more accounts in the individual's own name shall be insured up to \$100,000 in the aggregate.

(2) *Accounts held by agents or nominees.* Funds owned by a principal and deposited in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to \$100,000 in the aggregate.

(3) *Custodial loan accounts.* Loan payments received by a Federal credit union prior to remittance to other parties to whom the loan was sold pursuant to Section 107(13) of the Federal Credit Union Act and Section 701.23 of NCUA's Regulations shall be considered to be funds owned by the borrower and shall be added to any individual accounts of the borrower and insured up to \$100,000 in the aggregate.

(b) Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniformed Gifts to Minors Act and deposited in one or more accounts in the name of the guardian, custodian, or conservator are insured up to \$100,000 in the aggregate, separately from any other accounts of the guardian, custodian, conservator, ward, or minor.

§745.4 Testamentary Accounts.

(a) The term "testamentary account" refers to a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account, or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to named beneficiary.

(b) If the named beneficiary of a testamentary account is a spouse, child, or grandchild of the owner, the account shall be insured up to \$100,000 in the aggregate as to each such beneficiary.

separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary.

(c) If the named beneficiary of a testamentary account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual accounts of such owner and insured by \$100,000 in the aggregate.

§745.5 Accounts Held by Executors or Administrators

Funds of a decedent held in the name of the decedent or in the name of the executor or administrator of the decedent's estate and deposited in one or more accounts shall be insured up to \$100,000 in the aggregate for all such accounts, separately from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

§745.6 Accounts Held by a Corporation, Partnership, or Unincorporated Association

Accounts of a corporation, partnership, or unincorporated association engaged in any independent activity shall be insured up to \$100,000 in the aggregate. The account of a corporation, partnership, or unincorporated association not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership or unincorporated association and, for account insurance purposes, the interest of each person in such an account shall be added to any other account individually owned by such person and insured up to \$100,000 in the aggregate. For purposes of this section, "independently activity" means an activity other than one directed solely at increasing insurance coverage.

§745.7 (Reserved)

§745.8 Joint Accounts

(a) Separate insurance coverage. Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as

tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners.

(b) Qualifying joint accounts. Joint accounts are insured separately from individual accounts up to a maximum of \$100,000 provided that each of the co-owners has personally signed an account signature card and has a right of withdrawal on the same basis as the other co-owners.

(c) Failure to qualify. An account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to \$100,000 in the aggregate. An account will not fail to qualify as a joint account if a joint owner is a minor and applicable state law limits or restricts a minor's withdrawal rights.

(d) Same combination of individuals. All joint accounts owned by the same combination of individuals shall be added together and insured up to \$100,000 in the aggregate.

(e) Different combination of individuals. A person holding an interest in more than one joint account owned by different combinations of individuals may receive a maximum of \$100,000 insurance coverage on the total of his interest in those joint accounts.

(f) Nonmember joint owners. A nonmember may become a joint owner with a member on a joint account with right of survivorship. The nonmember's interest in such accounts will be insured in the same manner as the member joint-owner's interest.

§745.9-1 Trust Accounts

(a) For purposes of this section, "trust" refers to an irrevocable trust.

(b) All trust interests (as defined in subsection 745.2(d)(4)), for the same beneficiary, deposited in an account and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to \$100,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

§745.9-2 IRA/Keogh Accounts.

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under §401(d) (Keogh account) or §408(a) (IRA) of the Internal Revenue Code shall each be insured up to \$100,000 separately from other accounts of the participant or designated beneficiary. An IRA account shall be separately insured from a Keogh account.

(b) Upon liquidation of the credit union, any share insurance payment shall be made by the NCUA Board to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing by the plan participant or beneficiary.

§745.9-3 Deferred Compensation Accounts.

Funds deposited by an employer pursuant to a deferred compensation plan (including §401(K) of the Internal Revenue Code) shall be insured up to \$100,000 as to the interest of each plan participant who is a member, separately from other accounts of the participant or employer.

§745.10 Public Unit Accounts.

(a) Public funds invested in Federal credit unions and federally-insured state credit unions authorized to accept such investments shall be insured as follows:

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union shall be separately insured up to \$100,000;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state shall be separately insured up to \$100,000;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured credit union in the District of Columbia shall be separately insured up to \$100,000;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, shall be separately insured up to \$100,000;

(5) Each official custodian of tribal funds of any Indian tribe (as defined in Section 3(c) of the Indian Financing Act of 1974) or agency thereof lawfully investing the same in a federally-insured credit union shall be separately insured up to \$100,000.

(b) Each official custodian referred to in subsections (a)(2), (3), and (4) of this section lawfully investing such funds in a federally-insured credit union outside their respective jurisdictions shall be separately insured up to \$100,000; and

(c) For purposes of this section, if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but he shall not be separately insured with respect to all public funds of the same public unit by virtue of holding different offices in such unit or by holding such funds for different purposes.

(d) For purposes of this section, "lawfully investing" means pursuant to the statutory or regulatory authority of the custodian or public unit.

**§745.11 Accounts Evidenced by
Negotiable Instruments.**

If any insured account obligation of a credit union is evidenced by a negotiable certificate account, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such account obligation will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union provided the instrument was in fact negotiated to such owner prior to the date of the closing of the credit union. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§745.12 Account Obligations for Payment of Items Forwarded for Collection by Depository Institution Acting as Agent.

Where a closed credit union has become obligated for the payment of items forwarded for collection by a depository institution acting solely as agent, the owner of such items will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such depository institution forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Board and for the purpose of receiving payment on behalf of such owners.

§745.13 Notification to Members/Shareholders.

Each insured credit union shall provide notice to its members concerning NCUA insurance coverage of member accounts. This may be accomplished by placing either a copy of Part 745 of these rules, the Appendix, or one or more copies of the NCUA brochure "Your Insured Funds" in each branch office and main office of the credit union. Copies of these materials shall also be made available to members upon request. For purposes of this section, an automated teller machine or point of sale terminal is not a branch office.