



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

GC/TPM:rd
3500

November 7, 1988

Office of General Counsel

Dennis J. Grotrian, Esq.
Miller, Grotrian, Stewart & Jackson
3rd Floor, Paine Webber Building
803 South Calhoun St.
Fort Wayne, IN 46802-2274

Re: Outside Counsel Serving on FCU Board of
Directors (Your, September 1, 1988, Letter)

Dear Mr. Grotrian:

You have asked whether the outside counsel for a Federal credit union ("FCU") may be elected to the FCU board. In general, any member of the FCU may be elected to the FCU's board of directors. However, there are limitations concerning any FCU business dealings between the FCU and the board member, immediate family of the board member, or any corporate entity associated with the FCU board member.

FACTS

You and your firm have served as counsel for the Midwest America Federal Credit Union. The Nominations and Elections Committee has requested that you run for the FCU's board of directors. You see no proscription against such service.

ANALYSIS

Section 111(a) of the Federal Credit Union Act [12 U.S.C. §1761(a)] provides "...The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide...."

If you are a member of Midwest America FCU, you may run for a position on the board of directors. Your election to the

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board however, may affect the business dealings between: (1) you and your immediate family and your law firm, and (2) the FCU.

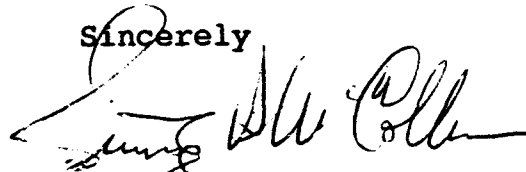
Section 701.21(c)(8) of NCUA's Rules and Regulations [12 C.F.R. §701.21(c)(8)] provides:

A [FCU] shall not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee or other compensation is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan or line of credit....

Similar conflict of interest provisions are found elsewhere in NCUA's Rules and Regulations: Section 701.21(d)(5) [12 C.F.R. §701.21(d)(5)], concerning loans with preferential rates, terms or conditions; Section 701.27(d)(6) [12 C.F.R. §701.27(d)(6)], concerning monetary benefits obtained through CUSO's; Section 701.36(e) [12 C.F.R. §701.36(e)], concerning FCU lease of officers' or directors' property; Section 703.4(e) [12 C.F.R. §703.4(e)], concerning investments; and Section 721.2(c) [12 C.F.R. §721.2(c)], concerning offering products and services of outside vendors.

You should also be aware of Article XIX, Section 4 of the Standard Federal Credit Union Bylaws, which prohibits a director of an FCU from "participation in the deliberation upon or determination of any question affecting [your] pecuniary interest...."

Sincerely



TIMOTHY P. MCCOLLUM
Assistant General Counsel

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