



NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

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February 2, 1989

Office of General Counsel

Jefferson W. Willis, Esq.  
Legal Division  
American Family Life Assurance  
Company of Columbus  
1932 Wynnton Road  
Columbus, GA 31999

Re: Propriety of Inviting Federal  
Credit Union Managers and  
Officials to Attend Meetings  
at your Home Office (Our May 26, 1988,  
Letter) (Your July  
28 and September 20, and  
October 26, 1988, Letters)

Dear Mr. Willis:

You have requested guidance on the interplay between IRPS 87-1 ("Guidelines For Compliance With Federal Bank Bribery Law") and Part 721 of the NCUA Rules and Regulations (12 C.F.R. Part 721) entitled "Federal Credit Union Insurance and Group Purchasing Activities".

The Bank Bribery Act makes certain activity a crime; Section 721.2(c) prohibits certain activity whether or not it constitutes a crime. The Bank Bribery Act does not supersede Part 721 and Federal credit unions ("FCU's") must comply with both that Act and Part 721.

**BACKGROUND**

Your firm offers insurance products for sale to FCU members and employees. As a way of improving your company's service, your company sets up one day, service-oriented meetings at your home office in Columbus, Georgia, for FCU managers and officials. The

meetings focus on resolving any problems with your insurance products and are attended by managers and officials of FCU's whose members and employees hold insurance policies with your company. All costs of the FCU officials and managers attending the meetings (including travel, food, lodging, and the cost of the meeting) are paid for by your company.

#### BANK BRIBERY ACT

In order to be found in violation of the Bank Bribery Act, there must be an element of corrupt intent. The Act provides, in part:

- (a) Whoever -
- (1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or
  - (2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution;

shall be [guilty of an offense]. (18 U.S.C. 215(a))

From the information given in your letters, there does not appear to be a problem under the Bank Bribery Act. However, as you may know, the Department of Justice, rather than the NCUA, has prosecutorial authority under the Bank Bribery Act.

#### PART 721

Section 721.2(c) of the NCUA Rules and Regulation (12 C.F.R. §721.2(c)) prohibits all individual compensation or benefit to FCU management or officials from insurance and group purchasing activities. It provides:

No director, committee member, or senior management employee of a Federal credit union or any immediate family member of any such individual may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under this Part. For purposes of this Section, "immediate family member" means a spouse or other family member living in the same household; and "senior management employee" means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

Section 721.2(b) sets forth limitations on reimbursement or compensation to the FCU itself:

- (1) Except as otherwise provided by applicable state insurance law, reimbursement or compensation is not limited with respect to insurance sales by the credit union or its employees which are directly related to the opening or maintenance of a share draft or share certificate account at the credit union;
- (2) For insurance sales other than those described in paragraph (b)(1), a Federal credit union may receive an amount not exceeding the greater of the dollar amount or the cost amount;
- (3) For group purchasing plans other than insurance, a Federal credit union may receive an amount not exceeding the cost amount.

An organization selling insurance products to an FCU's members through the FCU can invite FCU officials and managers to its home office for business purposes and pay the reasonable expenses of the trip and not be in violation of Section 721.2 of the NCUA Regulations. However, the FCU must determine that the trip would otherwise constitute a reasonable and legitimate business expense. In that situation the FCU, not the

official, would be receiving the actual benefit. If the FCU chooses, it may pay for such expenses and then be reimbursed by your firm. Such trips, however, cannot be used to circumvent the reimbursement provisions of Section 721.2(b).

Whether expenses are paid directly or by way of reimbursement, our concern will be with the amount and nature of those items, i.e., are they reasonable and for a legitimate business purpose? If not, then the benefit will be viewed as flowing to the official and thus a violation of Section 721.2(c).

#### INTERPLAY BETWEEN IRPS 87-1 AND PART 721

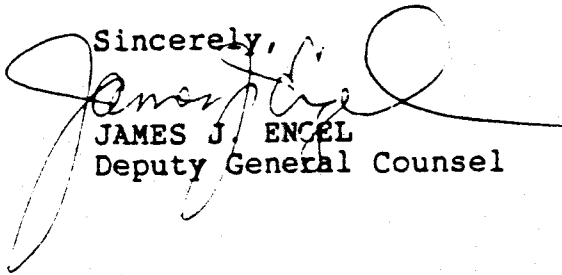
IRPS 87-1 was issued in October of 1987 by the NCUA Board (see 52 Fed. Reg. 38821, 10/19/87) in conjunction with the other Federal financial institution regulators to assist financial institution officials in complying with the Bank Bribery Act as amended in 1986. (18 U.S.C. §215). The Bank Bribery Act requires the financial institution regulatory agencies to publish guidelines to assist such institution officials and employees to comply with the law. It is clear from IRPS 87-1 that the Bank Bribery Act does not supersede NCUA regulations. IRPS 87-1 states, in part:

[R]egardless of whether a conflict of interest constitutes a criminal violation of the [Bank Bribery Act], it could violate NCUA's Rules and Regulations. Those regulations contain various provisions which prohibit officials, employees and their family members from receiving personal gain in connection with business transactions of the credit union. See, for example, ... Section 721.2(c), 12 C.F.R. §721.2(c), concerning group purchasing activities .... (52 Fed. Reg. 38822)

FCU's must comply with Section 721.2(c) even though it imposes a stricter standard than the Bank Bribery Act.

We hope that this letter clarifies any previous misunderstanding.

Sincerely,



JAMES J. ENCEL  
Deputy General Counsel