



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

May 16, 1989

Office of General Counsel

Mr. Robert R. McKenzie
First Atlantic Federal Credit union
100 Monmouth Park Highway
West Long Branch, N.J. 07764

Re: Compensating Directors for Services
Rendered (Your March 15, 1989, Letter)

Dear Mr. McKenzie:

You have requested our opinion on two issues involving the compensation of Federal credit union ("FCU") directors. The first issue is whether an FCU may compensate a board member for analyzing certified financial statements submitted by business loan applicants or for participating in an income tax preparation service offered by the FCU. The second issue is whether a board member of the FCU may be compensated for services rendered to a credit union service organization ("CUSO"). The answer to both issues is no.

APPLICABLE LAW

Section 111(c) of the FCU Act (12 U.S.C. 1761(c)) states:

No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.

Section 701.21(c)(8) of the NCUA Rules and Regulations (12 C.F.R. 701.21(c)(8)) addresses the issue of prohibited fees on loans made by FCU's and provides:

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(8) Prohibited Fees. A Federal credit union 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. . . .

Section 721.1 of the NCUA Rules and Regulations (12 C.F.R. 721.1) allows group purchasing plans (which would include income tax preparation services) to be made available to members but Section 721.2(c) specifically states:

(c) 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 [group purchasing plan].

Section 701.27(d)(6) of the NCUA Rules and Regulations (12 C.F.R. 701.27(d)(6)) addresses the issue of compensation for an FCU board member employed by the CUSO by providing:

(6) Conflict of Interest. (i) Individuals who serve as officials of, or senior management employees of an affiliated Federal credit union (as defined in (c)(1)), and immediate family members of such individuals, may not receive any salary, commission, investment income, or other income or compensation from a credit union service organization either directly or indirectly, or from any person being served through the credit union service organization. This provision does not prohibit an official or senior management employee of a Federal credit union from assisting in the operation of a credit union service organization, provided the individual is not compensated by the credit union service organization. Further, the credit union service organization may reimburse the Federal credit union for the services provided by the individual.

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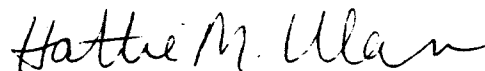
ANALYSIS

The purpose of Section 721.21(c)(8) is to ensure that the decisions a Federal credit union goes through at the various stages of making a loan, i.e., underwriting, insuring, servicing, or collecting, will not be influenced by the receipt of things of value by those at the credit union involved in such decisions. Clearly, a director receiving compensation for analyzing business loan applications runs afoul of this rule. Section 701.21(c)(8) prohibits a Federal credit union from making any loan or extending a line of credit if compensation is to be received by a director, either directly or indirectly. Thus, the NCUA Rules and Regulations prohibit an FCU from compensating a director for analyzing business loan applications.

A similar problem arises in the situation where a director is compensated for his involvement in an income tax preparation service provided by the FCU. This type of service is a group purchasing plan and Section 721.2(c) clearly prohibits an FCU from compensating a director, either directly or indirectly, in conjunction with a group purchasing plan. The same analysis used for prohibiting compensation to a director for analyzing business loan applications applies here in prohibiting compensation to a director for his participation in an income tax preparation service offered by the FCU.

You have also asked whether it is permissible for a board member of an FCU to be remunerated for services rendered to the CUSO. Section 701.27(d)(6) prohibits a director of a Federal credit union from receiving compensation from a CUSO, either directly or indirectly. Thus, the clear language of the regulation prohibits a CUSO from compensating a director of an FCU for services rendered to the CUSO.

Sincerely,



HATTIE M. ULAN
Assistant General Counsel

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