



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

Office of General Counsel

GC/MM:sg
SSIC 3601
89-0806

August 25, 1989

Ms. Judy Kelly
IBM Employees Southwest Federal Credit Union
P.O. Box 815789
Farmers Branch, Texas 75381-5789

Re: Denial of a Share Draft Account (Your August 1,
1989, Letter)

Dear Ms. Kelly:

You have asked us whether a member can be denied a share draft account, based upon the member's check-writing history with the Federal credit union ("FCU"). The answer is yes. You also asked us to review your account policies in relation to this question. Since the documentation you provided us does not delineate the criteria for the denial of a share draft account application, we cannot make a determination on this issue.

BACKGROUND

The FCU has a member who, since 1983, has had three separate checking accounts, two of which have been closed by the FCU for derogatory activity. The member has been responsible for repeated insufficient funds checks, liable as a joint owner to a spousal account with excessive insufficient funds checks, and has been held accountable for using checks from a closed account dating back to 1986 during the year 1989. The member is presently requesting a business share draft account implying a partnership in the name of the business when, in fact, it is a sole proprietorship with his name being the only signatory against the account. Based on the check-writing history of the member, the FCU wants to deny him a business share draft account.

FOIA

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III, Part, A, 3 Member Rights

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ANALYSIS

Section 111 of the FCU Act (12 U.S.C. 1761) provides that the management of an FCU resides in its board of directors, supervisory committee, and, where constituted, credit committee. An FCU member has a fundamental right to maintain a share account and to vote in annual and special meetings. Nothing in the FCU Act, NCUA's Rules and Regulations, or the FCU Bylaws prevents an FCU's management from establishing a policy of withholding FCU services (e.g., ATM services, credit cards, share draft accounts, and loans) to members who cause a loss to the FCU. In our opinion, an FCU may limit all services, except the members's fundamental rights, to those members who cause a loss to the FCU or misuse FCU services.

An FCU may be limited in what services are denied to a member by contract and other Federal and state laws. We give no opinion as to whether a policy of suspension of services violates other laws.

Sincerely,



HATTIE M. ULAN
Assistant General Counsel