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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20516

Office of General Counsel

GC/JJE:bhs
SSIC 4062
89-1015

October 20, 1989

Mr. J. Alvin George
Chairman
Financial Federal Credit Union
of San Diego
440 Beech Street
San Diego, CA 92101-3281

Dear Mr. George:

Your letter to Chairman Jepsen regarding credit union payment of the expenses of an official's spouse has been referred to this Office for response. In your letter you set forth your Board of Directors' opinion on this issue.

The specific question you would like addressed is: Can a Federal credit union pay (or reimburse) for a spouse's expenses when the spouse of an official accompanies the official on a credit union business trip? It is our position that payment or reimbursement is not permitted for the two reasons set forth below.

First, we do not believe that a spouse's expenses can qualify as legitimate business expenses of an FCU. There is no direct, indirect, or incidental benefit to an FCU's business in having an official's spouse accompany the official on business trips or while attending credit union conferences.

We are not unmindful of other determinations where it has been found that the expenses of a corporate officer's spouse may be reasonable business expenses. However, those situations involve substantial participation in furthering the corporation's business with its existing or prospective clients. That is not the case with FCU's.

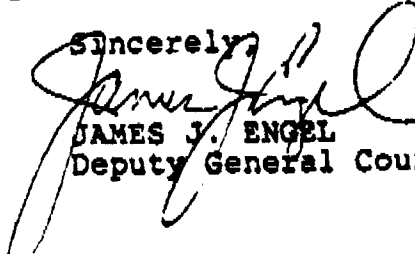
Our second reason is that payment or reimbursement would

constitute compensation to the official. As you know, Section 112 of the Federal Credit Union Act and Section 701.33 of NCUA's Rules and Regulations (amended August 8, 1988) address the area of compensation of officials. Only one board officer may be compensated as an officer of the board and no other official may receive compensation for performing board or committee duties. While an official may be reimbursed for reasonable and proper costs in carrying out official duties, a spouse's expenses are not reasonable and proper costs incurred by an official in performance of official duties. Payment of such expenses benefits the FCU official, not the FCU, and would be deemed prohibited compensation. We would note that your board has recognized that payment or reimbursement would be compensation, albeit the expense may be small, and would constitute taxable income.

As you may recall, in February, 1988, the NCUA Board requested comments on whether to amend Section 701.33 to permit reimbursement to officials for pay or leave actually lost while attending FCU board or committee meetings. Despite the rationale for such reimbursement, the majority of FCU's commenting on the proposal were opposed and it was not included in the final rule. The justification for a spousal expense exemption from the compensation prohibition is far less supportable than that proposed in 1988.

We appreciate your comments and hope the above provides a clear understanding of our position on this issue.

Sincerely,



JAMES J. ENGEL
Deputy General Counsel