



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

October 12, 1990

Mr. Vytautas A. Staskus
17511 Naff Road
Cleveland, OH 44119-1969

Re: Freedom of Information Act - Appeal
(Your September 17, 1990, Letter)

Dear Mr. Staskus:

We received your Freedom of Information Act (FOIA) appeal on October 5, 1990. On August 18, 1990, you requested copies of the examination report completed on or about April 20, 1990, on TAUPA Lithuanian Credit Union. The National Credit Union Administration ("NCUA") denied your request on September 6, 1990. The denial is affirmed. We have determined that the records meeting your request should be withheld pursuant to FOIA.

ANALYSIS

Exemption 8 of the FOIA (5 U.S.C. 522(b)(8)) exempts information:

- (8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

The regulation implementing exemption 8 is found at Section 792.3(a)(8) of NCUA's Rules and Regulations (12 C.F.R. 792.3(a)(8)). Section 792.3(a)(8) repeats exemption 8 of the FOIA and adds the following:

This includes all information, whether in formal or informal report form, the disclosure of which either would harm the

FOIA

111 But (3) Freedom of Information Act

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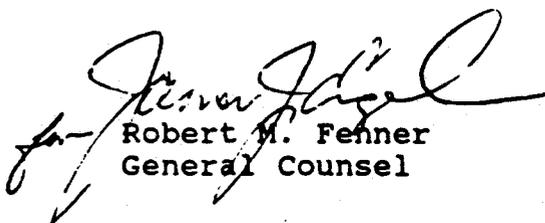
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financial security of credit unions or would interfere with the relationship between NCUA and credit unions.

The courts have gleaned two purposes for exemption 8 from its legislative history: 1) to protect the security of financial institutions by withholding frank evaluation of bank's stability, and (2) to promote cooperation and communication between employees and examiners. (See Atkinson v. FDIC, 1 GDS §80,034, at 80,102 (D.D.C. 1980).) Either purpose is sufficient reason to withhold a report. Courts do not require agencies to segregate and disclose portions of documents unrelated to the financial condition of the institution. An entire report relating to the financial condition of the institution may be withheld. (See Atkinson at 80,034, 80,103 (D.D.C. 1980).) We believe both purposes of exemption 8 are met. Therefore, the examination report responsive to your request is withheld pursuant to exemption 8.

Pursuant to 5 U.S.C. §552(a)(4)(B) of the Freedom of Information Act, you may seek judicial review of this appeal by filing suit to enjoin NCUA from withholding the documents you requested and to order production of such documents. Such a suit may be filed in the District Court of the United States in the district where the requestor resides, where his principal place of business is located, or in the District of Columbia.

Sincerely,


Robert M. Fenner
General Counsel

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