



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

August 29, 1991

Jinx Statler Beachler, Esq.
Bidwell & Beacher Co., L.P.A.
P.O. Box 6810
Columbus, Ohio 43205

Re: Freedom of Information Act - Appeal

Dear Mr. Beachler:

This will acknowledge receipt of your Freedom of Information Act ("FOIA") appeal. Your letter was received by this Office on August 19, 1991.

On July 23, 1991, the National Credit Union Administration's (NCUA) Region IV Director denied your FOIA request for "copies of any and all reports or results of audits performed of the Western Credit Union, Inc. performed, compiled or prepared during or for (in whole or in part) the period July 13, 1987, to December 7, 1988, inclusive." That denial is affirmed. Upon review of your request, we have determined that the documents described therein should be withheld pursuant to FOIA.

ANALYSIS

The documents you seek are within the scope of exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Exemption 8 exempts from disclosure information:

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.

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Section 792.3(a)(8) of the National Credit Union Administration Rules and Regulations, 12 C.F.R. §792.3(a)(8), implements exemption 8 and adds the following:

This includes all information, whether in formal or informal report form, the disclosure of which would harm the financial security of credit unions or would interfere with the relationship between NCUA and credit unions.

The courts have discerned two major purposes for exemption 8 from its legislative history: 1) to protect the security of financial institutions by withholding from the public reports that contain frank evaluations of a 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.

Exemption 8 has been given a very broad interpretation and all-inclusive scope by the courts. See, McCullough v. FDIC, 1 GDS ¶80,184 (D.D.C. 1980). Records including the findings of examinations are exempt. Atkinson, supra.

You argue that FOIA requires that an agency segregate the exempt portions of requested documents and provide the remainder of the documents to the requestor. However, the 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 pursuant to exemption 8. See Atkinson, 1 GDS at 80,103.

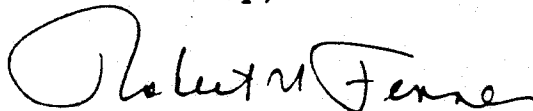
We believe that both purposes of exemption 8 are met by all documents meeting your request. Therefore, the documents responsive to your request are withheld pursuant to exemption 8.

Pursuant to 5 U.S.C. §552(a)(4)(B), 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 United States

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District Court in the district where you reside, where your principal place of business is located, or in the District of Columbia.

Sincerely,

A handwritten signature in cursive script that reads "Robert M. Fenner". The signature is written in dark ink and is positioned above the typed name and title.

Robert M. Fenner
General Counsel

GC/MRS:sg
SSIC 3212
91-0823

cc: Nicholas Veghts, Region IV Director