NATIONAL CREDIT UNION ADMINISTRATION
WASHINGTON, D.C. 20456

September 6, 1991

Jonathan Stern
Editor, CUIS
United Communications Group
11300 Rockville Pike, Suite 1100
Rockville, MD 20852-3030

Re: Freedom of Information Act - Appeal
(Your August 15, 1991, Letter)

Dear Mr. Stern:

We received your Freedom of Information Act (FOIA) appeal on August 16, 1991. On August 9, 1991, the Office of Administration of the National Credit Union Administration (NCUA) responded to your July 25, 1991, FOIA request for "each and every investigation report issued by NCUA's Inspector General since October 1, 1989, including any such reports completed since March 31, 1991, until July 25, 1991." The Office of Administration withheld all investigation reports pursuant to Section 552(b)(6) of the FOIA. We affirm.

Analysis

Exemption 6 of the FOIA permits the government to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. §552(b)(6). Section 792.3(a)(6) of NCUA's Rules and Regulations, which implements Exemption 6, states that the following NCUA records are not subject to disclosure:

> Personnel, medical, and similar files (including financial files), the disclosure of which without written permission would constitute a clearly unwarranted invasion of personal privacy. Files exempt from disclosure include, but are not limited to: (i) the personnel records of the NCUA; (ii) the personnel records voluntarily submitted by private parties in response to NCUA's request for proposals; and (iii) files containing reports,

FOIA 10 . 13

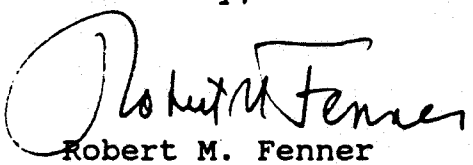
> records or other material pertaining to individual cases in which disciplinary or other administrative action has been or may be taken.

12 C.F.R. §792.3(a)(6). The reports you have requested are being withheld pursuant to Section 792.3(a)(6)(iii) of NCUA's Rules and Regulations implementing the FOIA.

We are not persuaded by your argument that NCUA "has already set a precedent" for release of the reports. Our release of certain information that may be contained in the reports does not mean that we have waived the right to withhold the reports themselves. See Mobil Oil Corp. v. EPA, 879 F.2d 698 (9th Cir. 1989); United States Student Ass'n v. CIA, 620 F. Supp. 565 (D.D.C. 1985); Nissen Foods, Co. v. NLRB, 540 F. Supp. 584, 586 (E.D.Pa. 1982). In addition, your request for a Vaughn Index of the withheld documents, see Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), is denied, as such an index is not required at the administrative level. Mayock v. INS, 714 F. Supp. 1558, 1567 (N.D.Cal. 1989); Safecard Servs., Inc. v. SEC, Civil No. 84-3073, slip op. at 4-5 (D.D.C. Apr. 21, 1986); Crooker v. CIA, Civil No. 83-1426, slip op. at 3 (D.D.C. Sept. 28, 1984).

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 District Court in the district where you reside or in the District of Columbia.

Sincerely,



Robert M. Fenner
General Counsel

GC/LH:sg
SSIC 3212
91-0821