



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 22, 1992

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Pillsbury, Madison & Sutro
Suite 335
455 Capitol Mall
Sacramento, CA 95814

Re: Leasing of Automobiles by Federal
Credit Unions ("FCUs") (Your Letter
of December 10, 1991)

Dear Mr. Boyden:

You have requested a reconsideration of the position of the NCUA as stated in our last letter to you, dated November 4, 1991. You propose a revision in your client's automobile leasing program for FCUs. You state:

[I]n conjunction with consummation of each lease the credit union would receive not only the title with the clear right to dispose of the vehicle following a lease default pursuant to its rights as a secured lender under the Uniform Commercial Code but in addition would have the right, upon notice to the nonrecourse borrower/lessor, to assume all incidents of the lessor status and thus to take ownership as opposed to merely a security interest in the vehicle. In this regard a power of attorney would be provided to allow the credit union to sign off on the title on behalf of the lessor. Your letter of December 10, 1991, pp. 1-2.

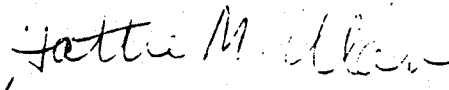
As we stated to you previously, NCUA Interpretive Ruling and Policy Statement No. 83-3, FCU Leasing of Personal Property to Members ("IRPS 83-3"), requires that the FCU take sole title directly to any leased property. In order for any de-

Cary C. Boyden, Esq.
January 22, 1992
Page 2

viation to be made to this requirement, a legal opinion addressing obstacles to FCU titling to the leased property in its own name must, to the satisfaction of the NCUA, demonstrate the need for the title to be held by a party other than the FCU. Furthermore, many other issues discussed in the response of the NCUA to you need to be answered to the satisfaction of the agency before your client's plan could be offered to FCUs. In addition, we would need to review how any revision fits into an amended proposal before we could state with certainty that it is in full compliance with IRPS 83-3. Once you have addressed all of the points of concern of the NCUA you may resubmit your client's amended proposal for a second review for compliance with IRPS 83-3 and other NCUA Rules and Regulations.

We note that the requirements of IRPS 83-3 were set forth by the NCUA Board so that leasing would be the functional equivalent of lending and thus a permissible activity. We note further that credit union service organizations ("CUSO") may engage in personal property leasing without meeting the requirements of IRPS 83-3. Of course, any FCU affiliated with a CUSO must comply with all of the provisions of Section 701.27 of the NCUA Rules and Regulations. 12 C.F.R. §701.27.

Sincerely,



Hattie M. Ulan
Associate General Counsel

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