



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

March 17, 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jim Jennings, President
Affiliated Federal Credit Union
P.O. Box 1000
Keller, Texas 76248

Re: ~~Appeal of Denial of Field of Membership
Expansion Request~~

Dear Mr. Jennings:

The National Credit Union Administration Board (the "Board"), at its March 11, 1992, open meeting, considered Affiliated Federal Credit Union's (the "credit union") appeal of Region V Director John S. Ruffin's denial of the credit union's request to add the Texas Food Industry Association and its members to the credit union's field of membership. Please be advised that the Board has upheld the Region V Director's decision, and denied the credit union's appeal.

The Board's determination is based on the correspondence and evidence submitted by the credit union, any additional evidence in the Region's files, and the relevant portions of Interpretive Ruling and Policy Statement 89-1, (54 Fed. Reg. 31165, July 27, 1989) incorporated in NCUA's Chartering and Field of Membership Manual (the "Chartering Manual"). The reasons for the Board's decision are set forth below.

Background

Affiliated Federal Credit Union was chartered in 1959. It serves its sponsor, Affiliated Food Stores, Inc., employees and food store owner members of the sponsor, related compa-

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nies and their employees, and immediate family members and— organizations of such persons. The credit union is located in Keller, Texas, near the Dallas/Fort Worth metroplex. It does not have any branch offices.

In December, 1990, the credit union submitted a request to NCUA's Region V, asking for permission to add the Texas Food Industry Association ("TFIA") as a sponsor, and to add both TFIA and Safeguard Money Order Co. to its field of membership. The credit union's expansion request also included the members and associate members of TFIA and Safeguard, their employees and the immediate family members of each. During the review process, the credit union voluntarily dropped Safeguard from the expansion request. Eventually, the proposed expansion was narrowed to TFIA and its members.

TFIA is a grocer's trade association, with its headquarters in Austin, Texas. It includes a number of local trade groups located across Texas. Each of the locals functions as an independent entity, as well as part of TFIA. One of the locals, the Dallas/Fort Worth Grocers' Association, is located in the Dallas/Forth Worth metroplex.

The credit union's request indicated that its primary reason for wanting to add TFIA as a sponsor was uncertainty about the future of its original and current sponsor, Affiliated Food Stores, Inc., which had recently filed Chapter 11 bankruptcy and was awaiting confirmation of its reorganization plan. The credit union apparently hoped to operate with two sponsors, and to adopt TFIA as its primary sponsor in the event that Affiliated Food Stores, Inc. ultimately failed. In later correspondence, the credit union stated that no matter what happened to Affiliated Food Stores, Inc., it wanted to add TFIA as a sponsor, and, eventually, to add other sponsors. Before the Region V Director made his decision, the bankruptcy court approved Affiliated Food Stores, Inc.'s reorganization plan, so that the danger of loss of the sponsor appeared to be past. The credit union nonetheless indicated that it wanted to proceed with the field of membership request and with its plans to add TFIA as a sponsor.

The Region, in a letter dated January 29, 1991, advised the credit union that the request to add TFIA and its members

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would be treated as a request for a select group addition under NCUA policy, as set forth in the Chartering Manual. That letter also explained operational area requirements for select group additions. The Region requested and received additional information on several occasions and also had a number of discussions with representatives of the credit union.

On October 16, 1991, the Region V Director sent the credit union a letter advising that the field of membership expansion request had been denied. The Director gave two reasons for the denial. First, TFIA did not meet NCUA criteria for select group addition to the credit union's field of membership because neither its headquarters nor a majority of its members were within the credit union's operational area. Second, a survey of TFIA's members taken by the credit union showed that a minimum number of TFIA members would join and support the credit union if TFIA was added to the field of membership.

The Director also pointed out that NCUA policy is to add select associational groups at the lowest organizational level, and suggested that the credit union consider adding the Dallas/Fort Worth Grocers' Association and its members to the field of membership.

The decision letter advised the credit union of its right to appeal the denial to the NCUA Board, as provided in the Chartering Manual. Although there is no statutory or regulatory right to an appeal of a field of membership decision, the Board hears such appeals as a matter of practice. The credit union filed its appeal with the Region on November 14, 1991.

Discussion

The Region V Director correctly denied the credit union's field of membership expansion request because the request did not satisfy the relevant criteria under the Chartering Manual.

The Chartering Manual sets forth the processes to be followed and the requirements to be met for addition of select groups to the field of membership. Five criteria must be satisfied

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before a request to add a select group can be granted. Among those criteria is the following:

- e. The group must be within the operational area of the home or a branch office of the credit union. Operational area is defined as an area surrounding the home or branch office that can reasonably be served by the applicant as determined by the NCUA.

The Board has delegated to each of its Regional Directors the discretion to define the limits of an operational area. Region V (like all of NCUA's other Regions) defines a credit union's operational area as the area within a 25 mile radius of the credit union's office. Although Region V will consider a distance of more than 25 miles justified if certain conditions are met, those conditions were not satisfied in this case. TFIA and its members are not located within 25 miles of the credit union's office; as noted above, TFIA's headquarters are in Austin, and its members are spread throughout Texas. Therefore, the request to add TFIA and its members did not meet the cited criterion.

The Chartering Manual does provide for an exception to the general operational area rule. That exception allows a credit union to serve the employees or members of a select group who are located outside the operational area "as long as the select group has its headquarters (or its "paid from") location within the credit union's operational area, or a majority of the company's employees work within the credit union's operational area." Since TFIA's headquarters are not within the operational area, the Region requested additional information from the credit union in order to determine whether a majority of TFIA's employees were within the operational area. The information provided showed that only 300 members, or 19 percent of TFIA's total membership, were within the credit union's operational area. Clearly, that number did not constitute a majority, and therefore the request did not qualify for the exception to the operational area rule.

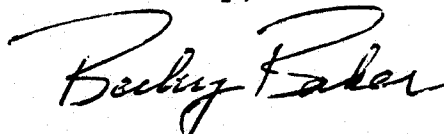
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The credit union's request did not satisfy NCUA's criteria for addition of a select group to the field of membership, nor did it qualify for an exemption from the operational area criteria. Furthermore, since TFIA consists of a number of locals, the addition of the entire TFIA to the credit union's field of membership would have violated NCUA's express policy, stated in the Chartering Manual, of adding associational groups at the lowest organizational level. The Region V Director's decision was therefore proper under NCUA's chartering and field of membership policy.

For the foregoing reasons, the Board finds that the credit union's request did not satisfy NCUA's criteria for addition of a select group to the field of membership and did not qualify for an exemption from the operational area criteria. The Board has therefore voted to uphold the Region V Director's denial of the credit union's field of membership expansion request, and to deny the credit union's appeal.

In its appeal letter, dated November 14, 1991, the credit union raised a number of additional issues not addressed in its original request for a field of membership expansion. Those issues, having been raised subsequent to the Region V Director's determination, were not decided by the Region V Director. Consequently, the Board has not considered any of those additional issues in rendering this decision.

Sincerely,



Becky Baker, Secretary
National Credit Union
Administration Board

cc: Region V Director

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