NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

May 26, 1992

Kristen D. Tatlock,
Compliance Specialist,
Governmental Affairs
Virginia Credit Union League
P.O. Box 11469
Lynchburg, Virginia 24506

Re: Establishment of Account of [redacted]
(Your April 13, 1992, Letter)

Dear Ms. Tatlock:

You inquired about the requirements for establishment by a decedent's estate of an account in a credit union. Specifically, you asked which of the following individuals must be a credit union member in order for the estate to establish an account: the decedent, the executor, and/or the heirs. You describe three fact situations and ask our opinion on each.

State laws may impose requirements for establishment of accounts in credit unions, and therefore you should check for any applicable Virginia law. Although you did not ask about the requirements for insurance of decedent's estate accounts, we note that an account, whether in an FCU or a state-chartered federally insured credit union, must meet NCUA requirements in order to qualify for NCUA insurance. In order to be federally insured, a decedent's estate account must meet the criteria discussed below.

Section 745.5 of NCUA's Rules and Regulations (the "Regulations"), 12 C.F.R. §745.5, describes the insurance coverage available for accounts held by executors or administrators. The regulation states that funds of a decedent, held in his name or in the name of his executor or administrator in one or more accounts, will be added together and insured up to $100,000 in the aggregate, separately from the individual accounts of the executor, administrator, or beneficiaries. The

regulation does not indicate who must be an FCU member in order for the account to be maintained.

However, the preamble to the 1986 revision to Part 745 of the Regulations (51 Fed. Reg. 37549, October 23, 1986) specifically addresses the membership question. The preamble states, in pertinent part:

> It has been the NCUA Board's position that, for an estate account, the conditions are analogous to the establishment of an irrevocable trust account. When shares are issued in an irrevocable trust, the settlor or the beneficiary must be a member of the credit union. By analogy, in order to establish an estate account, either the decedent (analogous to the settlor) or the beneficiary (or all the beneficiaries if more than one) must be a member of the credit union. The membership of the executor or administrator is irrelevant to establishing an estate account.

The specific fact situations you described, and our analysis of each, follow.

1. Decedent was and administrator is a member of the credit union.

This account may legally be maintained in an FCU, since the decedent was a member.

2. Decedent was a member, administrator is not.

This account may legally be maintained in an FCU, since the decedent was a member. The administrator's membership is irrelevant.

3. Administrator is a member, decedent was not.

This account may not legally be maintained in an FCU, because neither the decedent nor the beneficiary is a member. The administrator's membership is irrelevant.

4. Neither administrator nor decedent are members, but heirs to the decedent's estate are members or within the field of membership.

Membership of some of the beneficiaries, even coupled with eligibility of the rest, is not enough for establishment of the account. The preamble requires that all the beneficiaries be members, unless the decedent is a member. Therefore, the account may legally be maintained in an FCU, if all of the beneficiaries join. In that case, the fact that the decedent was not a member does not present a problem.

Sincerely,

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

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