NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

April 22, 1992

Karen A. Springer
Supervisor
Group Disability Claims
Minnesota Mutual Life
P.O. Box 64114
St. Paul, MN 55164-0114

Re: Freedom of Information Act ("FOIA") Appeal
(Your Letter of March 31, 1992)

Dear Ms. Springer:

The Office of General Counsel received your FOIA appeal on April 10, 1992, therefore NCUA has until May 8, 1992, to respond to your appeal under NCUA Rules and Regulations. See 12 C.F.R. §792.6(a)(2). The appeal was made within the required 30 days from the date of denial of your initial FOIA request. See Id. and Letter from John M. Hollis, Agent for Liquidating Agent, to you, entitled "Permian U.S.A. Federal Credit Union Liquidation Loan Transfer," dated March 12, 1992. That letter denied a copy of the Purchase and Assumption Agreement with Odessa Complex Federal Credit Union under exemptions 4 and 8 of the FOIA. See 5 U.S.C. 552(b)(4) and (b)(8). NCUA regulations implementing these exemptions are found at 12 C.F.R. §§792.3(a)(4) and (8). Exemption 4 concerns trade secrets and commercial/financial information obtained from a person and privileged or confidential. Exemption 8 concerns financial institution agency reports of examination or condition. After further review, we have determined that neither of these exemptions is applicable to this particular FOIA request. Therefore, we are reversing the denial of your FOIA request. A copy of the agreement you requested is enclosed.

Sincerely,

Robert M. Fenner
General Counsel

Enclosure
GC/MEC:sg
SSIC 3212
92-0417

FOIA Vol. IV, 81. Vol. IV, A7

NATIONAL CREDIT UNION ADMINISTRATION
REGION V

WHEREAS, the ASSUMING CREDIT UNION has proposed to enter into an agreement whereby it will assume all member share and certificate balances of the ASSUMED CREDIT UNION as herein set forth.

Now, THEREFORE, in consideration of the mutual promises herein set forth and other valuable consideration, each of the parties hereto, intending to be legally bound hereby, do severally undertake, promise, covenant, and agree with each other as follows:

SECTION 1 - ASSUMPTION OF MEMBER ACCOUNT BALANCES

ASSUMING CREDIT UNION hereby expressly assumes and agrees to pay or maintain at Book Value as of August 2, 1989 the ASSUMED CREDIT UNION'S member account balances listed on Trial Balance reports as of August 2, 1989. The ASSUMING CREDIT UNION agrees to pay out to any ASSUMED CREDIT UNION member their account balance.

NCUAB has transferred to the ASSUMING CREDIT UNION the amount of such member account balances which totals $1,206,011.53, as listed on Trial Balance as of August 2, 1989.

NCUAB agrees to guarantee the accuracy of the individual unpaid balances reflected.

NCUAB agrees to amend Section 5 of Odessa Complex Federal Credit Union's charter to include the members of record of the ASSUMED CREDIT UNION listed on the August 2, 1989 Trial Balance.

SEP 2 1 RECD

NATIONAL CREDIT UNION ADMINISTRATION
REGION V

PERMIAN USA Late

AGREEMENT

This AGREEMENT, made and entered into on August 4, 1989 by and among the National Credit Union Administration Board (hereinafter referred to as the NCUAB), Liquidating Agent through its duly appointed representative, the Regional Director of the Austin Regional Office of the National Credit Union Administration, 4807 Spicewood Springs Road, Stillhouse Canyon, Austin, Texas 78759, acting as Agent for the Liquidating Agent of Permian USA Federal Credit Union (hereafter referred to as the ASSUMED CREDIT UNION), and Odessa Complex Federal Credit Union (hereinafter referred to as the ASSUMING CREDIT UNION).

WITNESSETH:

WHEREAS, pursuant to 12 U.S.C. Section 1785(h), the NCUAB may authorize an institution whose deposits or accounts are insured by the National Credit Union Share Insurance Fund to purchase any assets of or assume any liabilities of an insured credit union which is insolvent or in danger of insolvency; and

WHEREAS, it is in the best interest of the NCUAB and the ASSUMED CREDIT UNION members and other creditors of the ASSUMED CREDIT UNION that the member account balances be immediately transferred to and assumed by Odessa Complex Federal Credit Union as provided; and

SECTION 2 - RECORDS

NCUAB, hereby assigns, transfers, and delivers to the ASSUMING CREDIT UNION the following records pertaining to the member accounts of the ASSUMED CREDIT UNION:

(a) Membership cards and signature cards between the ASSUMING CREDIT UNION and its shareholders, and records of similar character;

(b) Computer data disks containing statements of accounts of ASSUMED CREDIT UNION members.

SECTION 3 - PRESERVATION OF RECORDS

ASSUMING CREDIT UNION agrees to preserve and safely keep all of the files, books of accounts, and records referred to above for the joint benefit of itself and the NCUAB, and that it will permit the NCUA to inspect, and make extracts from, or copies of, any of such files, books of accounts, or records at any reasonable time.

SECTION 4 - INTEGRATED AGREEMENT

This Agreement contains the entire Agreement between the NCUA and the ASSUMING CREDIT UNION. This Agreement shall not be altered, enlarged, or modified except by a subsequent writing, signed by both parties. This Agreement may not be transferred, assigned, or sold without the written consent of the Agent for the Liquidating Agent. This Agreement may not be terminated except with the written consent of both parties.

SECTION 5 - PURCHASE OF LOANS

For value received, receipt of which is acknowledged, the NCUAB hereby assigns, transfers, and sets over all of the ASSUMED CREDIT UNION rights, title, and interest in all sums of money due or to become due on the loans listed on Schedule A together with the promissory notes and such other written evidence of indebtness that accompany such loans. All rights, title, and interest in all other documents relating to the loans including records of individual accounts, security agreements, certificates of title for automobiles, boats, mobile homes, and other collateral, certificates of lien upon real property, and mortgages on real property, is also hereby assigned.

SECTION 6 - SUCCESSORS AND THIRD PARTIES

All covenants, representations, warranties, and conditions of this Agreement shall be binding on the successors and assigns of the ASSUMING CREDIT UNION and the NCUAB. Nothing expressed or referred to herein is intended or shall be construed to give any person other than the ASSUMING CREDIT UNION and the NCUAB any legal or equitable right, remedy, or claim under or in respect of this agreement, or any provision herein contained, it being the intention of the parties hereto and this Agreement, the assumption of obligations and statements of responsibilities hereunder, and all other conditions and provisions hereof are for the sole benefit of the ASSUMING CREDIT UNION and the NCUAB and for the benefit of no other person.

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IN TESTIMONY WHEREOF, we have executed this Agreement on this 4th day of August, 1989.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

9/1/89 BY: John M. Hallid
Date Agent for the Liquidating Agent

ODESSA COMPLEX FEDERAL CREDIT UNION

9-15-89 BY: [signature]
Date President

4807 SPICEWOOD SPRINGS RD., SUITE 5200
AUSTIN, TEXAS 78759

DIVISION OF LIQUIDATION
512-482-4513