

July 14, 2011

Mr. John Franklin  
XXX (b)(6)

RE: 11-FOI-00122; 2011- APP-00008

Dear Mr. Franklin:

You submitted a request under the Freedom of Information Act (FOIA) to our agency by letter dated May 19, 2011 (received June 2), in which you sought a copy of the NCUA certificate of insurance that pertained to a particular credit union service center located at a specific address in Miami. Although you identified the address for the service center, you did not identify a particular credit union by name.

By letter dated June 8, 2011, Staff Attorney Linda Dent responded to your request and indicated that the agency had no records responsive to your request. You wrote again, by letter of June 14, essentially making the same request; your second letter also asked whether the credit union service center located at the specified address had private insurance on September 6, 1995. Ms. Dent responded again, by letter dated June 23, advising you that, since your second request was duplicative of the first, it was not a proper request under FOIA. She also advised you that NCUA does not maintain any records pertaining to private share insurance. You submitted a third letter, dated June 15, 2011 (received June 20), which you characterized as a "FOIA Appeal," in which you reiterated your original request, seeking a copy of the NCUA insurance certificate pertaining to the credit union service center located at the Miami address and asking whether the credit union operating from that address was federally insured as of September 6, 1995.

Your appeal is denied. As Ms. Dent's letter explained, the federal insurance provided by the NCUA through the National Credit Union Share Insurance Fund covers member share accounts at insured institutions, regardless of the location(s) a particular institution may use to conduct business transactions. In other words, it is not the location that is insured, and NCUA does not maintain insurance records based on location. Ms. Dent's letter advised you that the agency has no records that are responsive to your request, and I have confirmed that to be the case. Without a name of a credit union, it is not possible for us to identify or locate any records that would be responsive. Moreover, as Ms. Dent indicated, we do not maintain any records pertaining to private share insurance.

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In an effort to accommodate you, for purposes of this appeal we have interpreted your request to be seeking any records or information we might have identifying or pertaining to a credit union that may have maintained operations at the Miami address on the date you specified which is, as you know, almost 16 years ago. Our research shows, first, that there is no credit union office or service center currently operating at the address in question. Second, no one in our regional office having jurisdiction over Florida or within our field examiner staff with knowledge about institutions operating in the Miami area has any memory or knowledge about whether an insured credit union may have been in operation at that location on that date. Accordingly, we are not in possession of any records or information that is responsive to your request.

The adequacy of an agency's search under the FOIA is determined by a test of "reasonableness," which may vary from case to case. Zamansky v. EPA, 767 F. 2d 569, 571-73 (9<sup>th</sup> Cir. 1985). The reasonableness of an agency's search depends, in part, on how the agency conducted its search in light of the scope of the request. Hayden v. Department of Justice, No. 03-5078, 2003 WL 22305071, at 1 (D.C. Cir. 2003). The question is not whether any documents responsive to the request might exist, but rather whether the search for any responsive documents was adequate. Under the FOIA, an agency's search within one region has been held to be adequate when the agency reasonably concluded that responsive documents would most likely be there. Sakamoto v. EPA, 443 F. Supp. 2d 1182, 1198 (N.D. Cal. 2006). As noted, we contacted staff responsible for oversight of insured credit unions located in the geographic area you specified, and found that no data or responsive information exists. We believe a reasonable search was conducted. Your appeal is, therefore, denied.

Pursuant to 5 U.S.C. §552(a)(4)(B) of the FOIA, you may seek judicial review of this determination by filing suit against the NCUA. Such a suit may be filed in the United States District Court where you reside, where your principal place of business is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

/S/

Robert M. Fenner  
General Counsel

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11-0671  
GC/RPK/bhs