

March 17, 1993

Cora Foster, Supervisory Committee Member
Plains Bell Federal Credit Union
804 South Madison Street
Amarillo, Texas 79101

Re: Supervisory Committee Attending Entire Board Meeting (Your January 24, 1993, Letter)

Dear Ms. Foster:

You requested guidance with regard to the right of federal credit union ("FCU") supervisory committee members to attend board of directors meetings in their entirety. The Region V Director wrote to you on February 10, 1993, noting that your letter had been forwarded to our office for a response. While the supervisory committee may attend such meetings with the permission of the board, the committee members do not have an unqualified right to be present.

Background

You are a member of the supervisory committee of Plains Bell FCU. Apparently, the supervisory committee generally attends the complete board of directors meetings. You are concerned because the board of directors has recently excluded the supervisory committee from portions of the board meetings at which personnel issues (specifically, union organization) were discussed. You point out that the Supervisory Committee Guide for Federal Credit Unions ("Guide"), published by NCUA, recommends that supervisory committee members attend monthly board meetings. You interpret the Guide as requiring supervisory committee members to be present throughout all board meetings. The chairman of the FCU board of directors disagrees.

Analysis

While we commend your desire to fully discharge your duties as a member of the supervisory committee, we do not believe that the supervisory committee has an unqualified right, or an absolute duty, to attend all board meetings or portions thereof. Section 115 of the Federal Credit Union Act ("FCU Act"), 12 U.S.C. 1761d, gives the supervisory committee a number of powers and duties, including a general oversight duty with regard to FCU management and practices. However, neither the FCU Act nor the NCUA Rules and Regulations confer upon the supervisory committee the absolute right to attend meetings of the board of directors as part of its oversight function. While the Guide does recommend that supervisory committee members attend board meetings, the Guide does not have the force of law, and does not create a legal right or duty for supervisory committee members to attend such meetings.

It is a general principle of law that the board of directors of any corporation (including an FCU) may exclude from its meetings anyone who has not been duly elected to the board. The board is responsible for the general direction and control of the FCU (see Section 113 of the FCU Act, 12 U.S.C. 1761b) and the need for full and frank discussion by the board of all matters affecting the FCU is paramount if the board is to carry out its duties. Open discussion among the board members may be stifled by the presence of others, even supervisory committee members. The board is best able to judge who should be allowed to attend its meetings, and when individuals other than board members should be excluded. Of course, we do encourage FCU boards of directors to invite supervisory committees to attend board meetings whenever possible, in order to further the supervisory committee's understanding of the board's performance, and assist the su-

pervisory committee in discharging its general oversight duty.

We note that if supervisory committee members are not permitted to attend board meetings, they may adequately discharge their oversight duty by reviewing the minutes of board meetings. (See, Article XIX, Section 6 of the Standard FCU By-laws, granting committee members access to all FCU records.) A board's failure to keep such minutes violates section 113 of the FCU Act, and the supervisory committee has the authority to call a special meeting so that the FCU's members may consider such violation, pursuant to Section 115 of the FCU Act. I hope that we have been of assistance.

Sincerely,

Hattie M. Ulan
Associate General Counsel

cc: John S. Ruffin, Region V Director

GC/MRS:sg
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