

August 4, 1993

Simon Hellerman
President
Melrose Credit Union
20 S. Fourth Avenue, East
Melrose, Minnesota 56352

Re: Member Business Loans (Your July 22, 1993, Letter)

Dear Mr. Hellerman:

You have asked whether it is permissible for a board or committee member to be reimbursed for lost wages and at the same time have a business loan from a federally-insured credit union. A loan to a director under such conditions is not permissible.

ANALYSIS

Section 701.21(h) of NCUA's Regulations (12 C.F.R. 701.21(h)) governs member business loans. This rule applies to federally insured state chartered credit unions. See Section 741.3 of NCUA's Regulations. Section 701.21(h)(4)(i) of NCUA's Regulations prohibits a credit union from making business loans to a "member of the board of directors who is compensated as such." This office has consistently viewed the reimbursement of lost wages as compensation. If a director receives such reimbursement then he no longer is a volunteer at the credit union. This position is reflected in the preamble to the original business loan regulation (52 F.R. 12365, April 16, 1987). It stated that there may be a problem if state law authorized uncompensated directors:

to receive a small stipend for attending each board meeting, in addition to their reimbursement for expenses. These stipends although small, would cause those directors to lose their status as volunteers for purposes of the prohibition. Therefore, if a director desires to obtain a business loan from his/her credit union he/she should forego the stipend.

The prohibition also applies if the director is reimbursed for lost wages. Therefore, Melrose Credit Union can not make a business loan to a director who is being reimbursed for the wages lost while serving as a member of the board of directors. If the director desires a business loan, he should forego the wage reimbursement. This opinion, however, does not apply to committee members.

Sincerely,

James Engel,br> Deputy General Counsel

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