

May 1, 1991

David E. Shakespeare, Esq.
Pennsylvania Credit Union League
4309 North Front Street
Post Office Box 1351
Harrisburg, Pennsylvania 17105-1351

Re: Meal Reimbursement For Directors (Your February 7, 1991, Letter)

Dear Mr. Shakespeare:

You have asked whether a federal credit union director is entitled to meal reimbursement only if the meal is actually consumed at the board meeting site. Under some circumstances, a director may receive reimbursement for a meal that is not consumed at the meeting site. Generally, reimbursement would be permissible for a reasonable meal expense incurred by the director in order to attend the board meeting.

BACKGROUND

In a recent examination of a federal credit union located in Pennsylvania, an NCUA examiner verbally advised a credit union official that for a member of the board of directors to be entitled to meal reimbursement, the meal must actually be consumed at the meeting site. You believe a director should be able to purchase and consume a meal before or after the meeting and still be entitled to meal reimbursement. Since we do not know the particulars that gave rise to the examiner's comment, we can not express an opinion on the correctness of the advice given. The issue is not one that is susceptible of a definitive answer.

ANALYSIS

Section 112 of the FCU Act (12 U.S.C. ~1761a) provides that only one board member may be compensated. Section 111(c) of the FCU Act (12 U.S.C. ~1761(c)) prohibits any "member of the board or of any other committee" of an FCU from being compensated, as such, except for certain insurance protection, "and the reimbursement of reasonable expenses incurred in the execution of the duties of the position." Section 701.33(b) of NCUA Rules and Regulations (12 C.F.R. ~701.33(b)) interprets Section 111 of the FCU Act. It repeats the prohibition on compensation and further provides, in part:

(2) For purposes of this section, the term "compensation" specifically excludes: (i) payment (by reimbursement to an official or direct credit union payment to a third party) for reasonable and proper costs incurred by an official in carrying out the responsibilities of the position to which that person has been elected or appointed;

Consistent with the above provisions, the permissibility of meal reimbursements is best decided on a case-by-case basis. Any discussion of permissible reimbursement is limited to the facts and circumstances of each situation. Without knowing the specifics, we can only offer the following.

In reviewing any situation, it is first necessary to determine whether the cost is incurred in carrying out official duties. Second is the issue of reasonableness and propriety. Examiners have first hand experience in dealing with particular boards of directors and may respond to what they see as abusive practices. Without knowing the basis of an examiner's advice or comments, it would be inappropriate for us to second guess his or her decision.

We apologize for not providing a more definitive answer to your question. A decision on meal reimbursements rests with the board of directors of each FCU. NCUA reserves the right to take exception to such decision both under the reasonable-ness standard of the FCU Act and NCUA Regulations and on safety and soundness grounds.

Sincerely,

HATTIE M. ULAN
Associate General Counsel

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