

March 23, 1995

Paul G. Mercer
700 South Royal Poinciana Blvd.
Suite 502
Miami Springs, Florida 33166

Re: Conflict of Interest (Your March 14, 1995, Letter)

Dear Mr. Mercer:

You have asked whether directors of a federal credit union (FCU) may participate in decisions regarding the construction of a new office building for the FCU when their employer is bidding on the project. Article XIX, Section 4 of the FCU Bylaws provides that no director, committee member, officer, agent, or employee of a "credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting the pecuniary interest of any corporation, partnership, or association in which he or she is directly or indirectly interested." The FCU should make every effort to avoid even the appearance of a conflict of interest. Consequently, the directors should not participate in the deliberation or determination of the contract if there is a potential that their employer could possibly get subcontracts with the contractor awarded the project. We would also exclude these board members from participation in any board subcommittee overseeing the building project.

As you stated in your letter, these directors could be valuable assets in the board's selection of the construction contractor and the administration of the contract. However, the board members may not participate in these discussions and decisions if their employer will bid or be involved in the construction project. Enclosed are two recent legal opinions that provide further clarification on conflict of interest.

Sincerely,

Richard S. Schulman
Associate General Counsel

GC/MJMcK:bhs
SSIC 3501
95-0322
Enclosures