

January 14, 1994

Charles T. Hellmuth, Jr.
C.T. Hellmuth & Assoc., Inc.
Suite 1200
8401 Connecticut Ave.
Chevy Chase, MD 20815

Re: 457 Plan Investment Alternatives (Your Letter of January 6, 1994)

Dear Mr. Hellmuth:

You requested an opinion regarding the investments that are permissible for a federal credit union's (FCU's) Internal Revenue Code 457 employee retirement plan. While an FCU investing on its own behalf would be restricted by the investment provisions of the FCU Act and the NCUA Rules and Regulations (see 12 U.S.C. 1757(7), (8) and (15) and 12 C.F.R. Part 703), those provisions do not apply when the FCU as the employer is acting pursuant to its authority to provide retirement benefits to employees. The authority of an FCU to provide benefits to its employees is separate from its general investment authority and is not subject to the same limitations. Of course, such retirement plan investments must be made in accordance with other applicable laws, such as the Employment Retirement Income Security Act of 1974, as amended ("ERISA"). For further information, you may refer to the following enclosed NCUA opinion letters. See Letter from Hattie Ulan, NCUA Associate General Counsel, to Judith Bartels, Educational Employees Credit Union, Re: Insurance of Retirement Plans, dated December 1, 1993; Letter from Ms. Ulan to Claude Kazanski, CUNA Mutual Insurance Group, Re: FCU Authority to Purchase Annuity to Fund Post-Retirement Health Insurance Benefits, dated June 16, 1993; Letter from Ms. Ulan to Thomas Stanek, National CU Services, Inc., Re: FCUs Filing 5500 Reports, dated April 1, 1992; Letter from Ms. Ulan to Tom Peterson, The Mann Financial Group, Inc., Re: Employee Retirement Plan - MacDill FCU, dated March 19, 1992 (with NCUA Letter to Credit Unions No. 21, Fiduciary Liability Insurance); Letter from Ms. Ulan to J. Mark Burns, Muchison Financial Group, Re: Non-Qualified Deferred Compensation Plan, dated October 26, 1990; Letter from Ms. Ulan to Kevin Devlin, Devlin & Hale

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Associates, Inc., Re: Credit Unions Eligibility to Sponsor Eligible Deferred Compensation Plans, dated December 11, 1989; and Letter from Steven Bisker, NCUA Assistant General Counsel, to Robert Korthase, 66 FCU, dated May 29, 1987.

Sincerely,

Richard S. Schulman
Acting Associate General Counsel

Enclosures

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