May 2, 1994

James W. Pearson, Jr., Esquire Edelstein, Mintzer & Sarowitz 1528 Walnut Street, Suite 2200 Philadelphia, PA 19102

Re: Request for Opinion Letter (Your April 14, 1994, Letter)

Dear Mr. Pearson:

You have requested an opinion regarding the legality of certain lending practices. As described in your letter, a non-credit union member purchases a car from a dealer and then requests the dealer to arrange financing. The dealer arranges financing with a credit union without discussing with the purchaser the need to first join the credit union. The credit union waives the required share purchase, makes the purchaser a member and grants the loan. For purposes of this opinion, we will assume that the purchaser is within the credit union's field of membership.

We have no problem with simultaneous membership and loan application, as long as the borrower is actually a member when the loan is made. If the borrower is not a member when the loan is made, as the facts in your letter indicate, then this would be an impermissible practice. As you are aware, Section 109 of the Federal Credit Union Act, 12 U.S.C. 1759, in conjunction with Article II, Section 2 of the Federal Credit Union Bylaws provide that to become a member, an individual who is within the FCU's field of membership must complete and sign a membership application, purchase (or pay the initial installment on) one share of stock, and pay any applicable entrance fee. Section 109 does not require that the one share of stock be in a regular account. Thus, an FCU may establish that a share, for purposes of establishing membership in the FCU, may be held in an account other than a regular share account, such as a share certificate or share draft account.

I hope that we have been of assistance.

Sincerely,

James J. Engel Deputy General Counsel

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