

June 22, 1994

John F. Leonardo  
Director of Administration  
Summit Federal Credit Union  
1200 Sibley Tower  
Rochester, NY 14604

Re: Reduced Services (Your May 23, 1994, Letter)

Dear Mr. Leonardo:

You have requested an opinion as to whether it is permissible to suspend certain services to members/employees who have caused a loss to the credit union or engaged in fraudulent activity in their capacity as employees. As explained below, the answer is yes.

You have correctly advised that in the past we have allowed for suspension of services when the member caused a loss as a result of a bankruptcy or a charged-off loan, but have never rendered an opinion with respect to a loss caused by an employee. The FCU Act grants all members two basic rights: the right to maintain a share account, and the right to vote at annual and special meetings. 12 U.S.C. 1759, 1760. However, nothing in the FCU Act precludes an FCU from restricting the availability of certain services, provided that there is a rational basis for doing so. The FCU has determined that employees/members who caused a loss or attempted fraud in their capacity as employees should have their membership rights restricted due to safety and soundness concerns. As long as the FCU has a rational basis for limiting services, we would have no legal objection.

An FCU may be limited in what services are denied to a member by contract and other federal and state laws. We give no opinion as to whether a suspension of services policy violates other laws, including the Equal Credit Opportunity Act or applicable state laws.

I hope that we have been of assistance.

Sincerely,

James J. Engel  
Deputy General Counsel

GC/MFR:bhs  
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94-0604