

October 27, 1995

Edward H. Lechner, President

Indiana Federal Credit Union

5103 South Madison Avenue

Indianapolis, Indiana 46227

Re: Freedom of Information Act Appeal

(Your letter dated September 19, 1995)

Dear Mr. Lechner:

On August 18, 1995, you filed a Freedom of Information Act (FOIA) request for all written and oral (telephone records) correspondence regarding the inclusion of The Rough Notes Company, Inc. into Indiana Telco Federal Credit Union's field of membership. On August 25, 1995, Nicholas Veghts, NCUA Region IV Director, responded to your request by forwarding to you all written correspondence responsive to the request. Two responsive documents were withheld pursuant to exemptions to the FOIA. A telephone note was withheld pursuant to exemption 2 of the FOIA and the employees' petition was withheld pursuant to exemption 6 of the FOIA. We received your September 19 appeal on September 29. Your appeal letter only addresses the withholding of the telephone note. No appeal is made for the employees' petition. The appeal is upheld in part and reversed in part as discussed below. A redacted copy of the telephone note is enclosed.

The telephone note was withheld pursuant to exemption 2 of the FOIA,

5 U.S.C. 552(b)(2). Exemption 2 exempts from mandatory disclosure records "related solely to internal personnel rules and practices of an agency." The courts have interpreted exemption 2 to encompass two distinct categories of information: trivial matters referred to as "low 2" information; and more substantial internal matters referred to as "high 2" information. The telephone note was withheld under the low 2 interpretation of the exemption. Low 2 information includes file numbers, mail routing stamps and data processing notations. Although the telephone note does include some low 2 information, most of the substance of the note is information about the proposed overlap between Indiana FCU and Indiana Telco FCU and is not subject to the low 2 exemption. There is some information contained in the telephone note that is withheld pursuant to exemption 6 of the FOIA, 12 U.S.C. 552(b)(6). Exemption 6 permits the NCUA to withhold all information about individuals in "personnel and medical files and similar files" where the disclosure of such information "would constitute a clearly

unwarranted invasion of personal privacy." There is some information contained in the telephone note that, if disclosed, would be an invasion of an individual's personal

privacy. Therefore the telephone note is released, with portions withheld and redacted pursuant to exemption 6 of the FOIA.

Pursuant to 5 U.S.C. 552(a)(4)(B), you may seek judicial review of this determination by filing suit to enjoin NCUA from withholding the portions of the document you requested and to order production of the entire document. Such a suit may be filed in the United States District Court in the district where you reside, where your principal place of business is located, the District of Columbia, or where the document is located (the Eastern District of Virginia.)

Sincerely,

Robert M. Fenner

General Counsel

Enclosure

GC/HMU:bhs

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