



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

August 8, 2003

James J Engel  
Deputy General Counsel  
National Credit Union  
Administration  
1775 Duke Street  
Alexandria, VA 22314-3428

Dear Mr. Engel:

The Office of Government Ethics (OGE) has completed its review of the National Credit Union Administration's (NCUA) ethics program, which focused on the Central Office and Region II. The review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Ethics Act). Our objective was to determine the effectiveness of the ethics program, largely measured by its compliance with applicable statutes and regulations. This review was conducted from May through July 2003.

#### HIGHLIGHTS

NCUA's ethics program appears sound and well geared to your agency's mission and employees. We believe that the program is appropriately focused on preventing employee ethical violations based on the useful ethics training and advisory services that you provide. Also, NCUA's enforcement process promptly and effectively deals with employee ethical breaches.

#### STAFFING FOR ADMINISTERING PROGRAM APPROPRIATE

Staffing level for the ethics program appears appropriate given the agency's size and organizational structure. As the Deputy General Counsel, you serve as the Designated Agency Ethics Official (DAEO) for the approximately 950 NCUA employees who are located at NCUA's Central Office in Alexandria, VA and in six regional offices and additional sub-offices. The General Counsel serves as Alternate DAEO. In addition, two other attorneys in your Office who are known as Deputy Ethics Officials (DEO) spend part of their time working on ethics-related matters, including reviewing financial disclosure reports and providing advice. The Associate Regional Director, Operations within each regional office also serves as DEO. These regional office DEOs are responsible for

Mr. James J Engel  
Page 2

administering the confidential disclosure systems for filers in their respective Offices. In addition, they occasionally dispense ethics advice to employees in their respective Offices, often after consulting with ethics officials within your Office.

#### ETHICS AGREEMENTS SATISFIED

For the time period 2002 up to the present, we confirmed that there were two Board members who agreed to take certain actions related to their Senate confirmation--a recusal by one Board member and a resignation from a position coupled with a recusal by another Board member.<sup>1</sup> All actions were completed before their confirmation date; however, requisite evidence of action taken, in accordance with 5 C.F.R. § 2634 804, was not submitted to OGE shortly after you received it. When we last met with you, we reminded you of the requirement to provide evidence of compliance documentation to our Office timely and you agreed to do so.

We believe that having Board members annually update their recusals is a good practice. All three formally remind key officials, including you and the Secretary of the Board, of their respective credit union memberships. While it is unlikely that specific matters involving an individual credit union would be raised to the Board, out of an abundance of caution Board members formally disqualify themselves from matters involving these institutions.

#### ENFORCEMENT PROMPT AND EFFECTIVE

NCUA appears to promptly and effectively deal with those employees who engage in unethical conduct, in accordance with 5 C.F.R. § 2638 203(b)(9). From 2002 up to the present, the agency took administrative actions against eight employees who had misused their Government-furnished travel charge cards and/or failed to satisfy their just financial obligations. Administrative actions included issuing letters of reprimand and suspensions ranging from three to five days.

#### RELATIONSHIP WITH OFFICE OF INSPECTOR GENERAL GOOD

The requirements of 5 C.F.R. § 2638.203(b)(11) and (12) are being satisfied pertaining to reviewing ethics-related information

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<sup>1</sup> NCUA is governed by a Board consisting of three members who are Presidentially-appointed, Senate-confirmed (PAS)

Mr. James J. Engel  
Page 3

developed by Office of Inspector General (OIG) audits and making appropriate use of OIG services. Ethics and OIG officials stated that they have a good working relationship with one another and that they, as necessary, coordinate on employee misconduct cases and other ethics matters. As a recent example, the two offices coordinated on cases of employees' misuse of the Government-furnished travel charge card. Officials stated that there have not been any recent conflict of interest violations referred to the Department of Justice. Should there be referrals in the future, officials are knowledgeable about the requirement to concurrently notify OGE, in accordance with 5 C.F.R. § 2638.603.

#### ETHICS COUNSELING AND ADVICE PROVIDED

Ethics counseling and advice services meet the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). While you often provide ethics advice orally, you also dispense it in written form, usually by e-mail. We examined approximately 50 written determinations that you provided to employees from 2000 to the present and found that they were accurate, consistent with applicable laws and regulations, and appeared to meet employees' needs. The advice covered outside activities, gift acceptance, fund-raising activities, and potential conflicting interests.

As a good technique to heighten awareness of ethics rules and regulations, we encourage you to occasionally distribute information to all employees on topical ethics matters. We also advocate that you establish an ethics intranet Web site at your agency as a way to easily provide ethics-related information for employees, such as the Standards of Conduct, ethics training materials, and responses to frequently-asked questions. When we last met, you told us that work on developing a Web site had begun.

You also told us that you always provide departing Board members a post-employment briefing and written materials. However, most other employees do not routinely receive post-employment briefings or materials, except as requested. We believe that materials such as these would be useful to post on an ethics intranet Web site.

#### ETHICS EDUCATION AND TRAINING REQUIREMENTS SATISFIED

We found that OGE's ethics education and training requirements are being met at NCUA, including annually documenting the ethics training plan. As a good management practice, however, we encouraged that you develop a process to systematically track the

Mr. James J. Engel

Page 4

completion of annual ethics training by covered employees. You agreed to do so.

#### Initial Ethics Orientation

The initial ethics orientation requirement is routinely satisfied for all new employees, including new Board members. You told us that in addition to providing new Board members required written materials, you customarily provide one-on-one ethics briefings, which is a practice we encourage you to continue.

Initial ethics orientation is immediately satisfied for new employees when they in-process through the Office of Human Resources and are given written ethics materials. Materials given to new employees include a copy of the Standards of Conduct. In addition, all new employees receive a CD-ROM which includes a brief discussion of the 14 principles of ethical conduct.

#### Annual Ethics Training

Annual ethics training requirements were satisfied in 2002. Though we were not able to independently confirm receipt of training because you do not systematically maintain these types of records, you told us that all covered employees received annual ethics training in 2002. You also told us that you provided one-on-one annual ethics training to Board members and personalized the training according to their situations. This is a practice that we encourage you to continue. Another good management practice that we promote is for you to develop a record-keeping process to document the fact that covered employees received annual ethics training.

In 2002, you presented ethics training at three different conferences which you said key Central Office employees and all regional office employees attended. In addition, in 2002, you provided ethics training to new supervisors and gave an ethics training session in December geared for those covered employees who had not already received ethics training in 2002.

In July 2003, you provided ethics training to about 200 attendees at NCUA's annual Managers' Conference. Since most covered employees other than public filers were not in attendance at this training session, at a minimum, you intend to fulfill the annual ethics training requirement for them by distributing a slightly revised copy of the training materials used at the Conference. You also said that, if time permits, you will offer another in-person verbal training session for Central Office

Mr. James J. Engel  
Page 5

covered employees before the end of this year. In addition, you intend to keep track of those who receive verbal versus written annual ethics training

**PUBLIC AND CONFIDENTIAL SYSTEMS'  
IN COMPLIANCE**

We found that NCUA's public and confidential financial disclosure systems are in compliance with OGE's financial disclosure requirements. However, we suggest two operational improvements. First, although your written procedures for administering the systems meet the fundamental requirements of the Ethics Act, when we met with you we suggested several changes to make them more accurately reflect how the systems are administered. You agreed to update your current procedures and consider our suggestions. Second, as a good management practice, we spoke with you about improving your record-keeping so that you have consistent statistical information on each region's confidential filers. You agreed to improve your record-keeping.

Public System

The centralized public system appears well run. We confirmed that all of the approximately 50 reports required to be submitted by public filers (other than the Board members and you) in 2002 were accounted for. We examined a sample of 21 of these reports for filing and review timeliness and for review thoroughness. All 21 were filed and reviewed timely. In addition, based on the notations we observed on the public reports, we found that the DEO on your staff, whom you have designated as the certifying official, conducted thorough reviews for technical accuracy and for potential conflicts of interest.

We also examined the annual and termination reports filed by Board members and you, which are required to be transmitted to OGE pursuant to 5 C.F.R. § 2634.602, for timeliness of filing, review, and transmittal to OGE. In 2002, due to the appointment of two new Board members, two annual reports (from you and the Chairman) and one termination report (from a former Board member) were required to be filed. We found that all three reports were filed and reviewed timely. While the termination report was transmitted to our Office timely, the two annual reports were not sent to us until several months after they were certified. When we last met, we reminded you of the requirement to transmit reports as soon as they are certified, which you agreed to do.

Mr. James J. Engel  
Page 6

Confidential System

The decentralized confidential system appears sound. You told us that all of the approximately 775 reports required to be filed in 2002 were accounted for. However, we could not independently verify this accounting based on the records you maintain from the regions. We examined a sample of 30 of the approximately 85 reports filed by Central Office employees. We also examined a sample of 30 of the approximately 135 reports filed by Region II employees, also located in Alexandria, VA. Generally, reports were filed and reviewed timely and review of reports for both technical accuracy and for potential conflicts of interest appeared thorough.

Since you serve as the overall administrator for your agency's decentralized confidential system, we believe that you should maintain consistent statistical information on the status of the confidential system in each region. You told us that you currently receive information from DEOs in various ways and formats. As a good management practice, we advocate that, at a minimum, DEOs should report to you annually on the number of reports required to be filed and the number collected (and explain any discrepancies). Also, DEOs should attest to the fact that they have certified all reports and explain any discrepancies.

As a reminder, a revision to our Annual Agency Ethics Program Questionnaire for calendar year 2003 calls for agencies to report to us on the number of OGE Forms 450 and number of OGE Optional Forms 450-A filed.<sup>2</sup> Therefore, when DEOs report to you on the number of reports filed, they should also break-out the numbers of OGE Forms 450 versus 450-A.

TRAVEL PAYMENTS FROM NON-FEDERAL  
SOURCES NOT ACCEPTED

We could not assess the acceptance of payments for travel, subsistence, and related expenses from non-Federal sources since NCUA does not accept this type of payment. However, we did confirm that you routinely submit negative semiannual reports to OGE as required.

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In closing, I wish to thank you for all of your efforts on behalf of the ethics program. No six-month follow-up review is

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<sup>2</sup>See DAEOgram DO-02-031, dated December 24, 2002.

Mr. James J. Engel  
Page 7

necessary in view of the fact that we have no recommendations for improving your program at this time. We are sending a copy of this report to the Inspector General. Please contact Ilene Cranisky at 202-482-9227, if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Jack Covalesski". The signature is written in a cursive style with a large initial "J".

Jack Covalesski  
Deputy Director  
Office of Agency Programs

Report Number 03 - 020