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Description of document: National Credit Union Association (NCUA) records provided to Senator Charles E. Grassley and Senator Tom Coburn concerning the independence of the Inspector General necessary to promote efficiency and prevent fraud, waste and abuse in agency programs, in response to the Senators' inquiry, 2011-2012

Requested: 17-April-2012

Released date: 09-May-2012

Posted date: 23-February-2015

Source of document: Freedom of Information Act Request
National Credit Union Association
Office of the Inspector General
1775 Duke Street
Alexandria, VA, 22314
Fax: 703-518-6349
Email: FOIA@ncua.gov

Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/6docs/GrassleyCoburn.htm>

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From: "Separ, Sharon"
Date: Wed, 09 May 2012 18:42:52 +0000
Subject: NCUA OIG FOIA Response 5-9-12

Please see attached.

Sharon Separ
Counsel to the Inspector General
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314



**National Credit Union Administration
Office of Inspector General**

SENT VIA EMAIL

May 9, 2012

Re: Freedom of Information Act Request

This is in response to your letter dated April 17, 2012, requesting information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Specifically, you requested a “copy of each biannual response to Senators Grassley and Coburn regarding their April 8, 2010, request to the NCUA Office of Inspector General to provide a summary of [our] non-public management advisories and closed investigations.

The OIG located and is providing herewith eighteen (18) pages responsive to your request. Information redacted from these documents qualifies for protection under subsections (b)(4) and (b)(7)(C) of the FOIA. Subsection (b)(4) protects trade secrets and commercial or financial information obtained from a person and privileged or confidential. Subsection (b)(7)(C) protects information compiled for law enforcement purposes if its release could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Should you consider any or all of the determinations set forth above a denial of your request, you have the right to appeal those determinations. An appeal may be in writing or sent electronically, and filed within 30 days from the receipt of this initial determination.

If you file a written appeal, please note “FOIA-APPEAL” in the letter and on the envelope and address your appeal to:

**National Credit Union Administration
Office of General Counsel—FOIA APPEAL
1775 Duke Street
Alexandria, Virginia 22314-3428**

If you wish to submit your appeal by email, address the email to FOIA@ncua.gov. If you submit an appeal by email, the subject line of the email should read "FOIA Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "S. Separ", written in a cursive style.

Sharon Separ
Counsel to the Inspector General

Enclosure
Cc: FOIA Officer



**National Credit Union Administration
Office of Inspector General**

Via Electronic Transmission

June 14, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security and Governmental
Affairs Committee
United States Senate
Washington, DC 20510

Dear Senators Grassley and Coburn:

Thank you for your letter of April 8, 2010, seeking information concerning the National Credit Union Administration (NCUA) Office of Inspector General's (OIG) independence in carrying out audits, investigations, and evaluations within NCUA. At the outset of my response, allow me to emphasize that our office is a fully independent OIG. We decide what work we will perform, and the agency has never obstructed us from initiating or completing an audit, investigation, or evaluation related to NCUA programs or operations. Our office operates with integrity, and carries out its mission in a professional, thorough, and constructive manner. We take our responsibilities very seriously and maintain a professional, arms-length relationship with the NCUA Board and management.

Please find below our detailed responses to each of your specific requests for information.

1. Instances of NCUA resistance to OIG oversight activities/restriction of OIG access to information.

In response to your request that we "list and describe any instances when [the Agency] resisted and/or objected to oversight activities and/or restricted [our] access to information," we can respond unequivocally that there have been no such instances. The NCUA Board recognizes and respects the OIG's independent role in carrying out our mission under the Inspector General Act of 1978, as amended (IG Act). Moreover, the Board and agency management have been consistently responsive to our requests for information and access to employees and records.

2. Information on non-public, closed investigations, evaluations, and audits.

Your letter also requested that we provide biannual reports on all investigations, evaluations, and audits closed by our office between January 1, 2009, and April 30, 2010, that were not disclosed to the public. In a conference call with the CIGIE Legislative Committee, your staff clarified that, regardless of whether a particular OIG uses the terminology "biannual report," you were seeking summaries of investigations, evaluations, and audit reports that had not been made publicly available during the time period set forth in your request.

All of the audit reports we have issued since January 1, 2009, are publicly available. Consequently, our response below details investigative reports, review/evaluation summary documents, and memoranda to file on closed matters for the time period requested, that we did not make publicly available.¹

a. *False Statements/Breach of Telecommuting Agreement/Violation of Agency Instructions/Violations of Ethics Standards/Violation of Agency Computer Security Rules of Behavior (CSROB) (09-I-R9-01)*

The OIG opened this case based on allegations it received that an NCUA [REDACTED] [REDACTED] may have fabricated official documents related to, as well as misrepresented her employment (position) at NCUA. The investigation into the initial allegations gave rise to questions about false statements the employee may have made to her supervisor regarding leave requests and a telecommuting arrangement, which began in July 2008 and ended in January 2009. After we received a declination from the Assistant United States Attorney (AUSA), we proceeded with an administrative investigation. The investigation concluded the following:

- The employee made false statements to her supervisor regarding leave requests and the telecommuting arrangement she negotiated with the agency. These false statements constituted violations of (1) 18 U.S.C. 1001- False Statements; (2) the terms and conditions of the *Agreement for Telecommuting* which she executed on June 22, 2008; and (3) an NCUA Instruction on telecommuting.
- The employee used her NCUA-issued computer to fabricate agency documents misrepresenting her position at NCUA. These actions constituted violations of 5 CFR Part 2635—*Standards of Ethical Conduct for Employees of the Executive Branch*, in particular, violations of sections 2635.101(a), (b)(1), and (b)(14)—Basic Obligations of Public Service, and section 2635.704—Misuse of Government Property.
- The employee was negligent in allowing a third party to access her NCUA-issued computer and, upon learning of the access, failing to notify the OIG or the NCUA Information Security Officer as required by the CSROB. The employee had previously reviewed and signed the CSROB.
- The employee also violated 18 U.S.C. 1001—False Statements, when she lied to an OIG investigator during an investigative interview.

¹ We reported on all of the cases described in this response in previously issued Semi-Annual Reports to Congress. In this letter, we provide additional details regarding the specific issues in each case as well as their respective dispositions.

(b)(7)(C)

The OIG issued a final Report of Investigation (ROI) to the NCUA Board and agency management with a need to know. The agency issued a proposed removal action but the employee resigned prior to issuance of the final removal action decision.

b. *GAO FraudNet Referral (09-R-R9-02)*

The OIG investigated and closed a matter that it received as a United States Government Accountability Office (GAO) FraudNet Operations Hotline referral. The complaint, sent anonymously to the GAO FraudNet hotline, stated that in January 2009 the agency made changes to a collection of information form it sent to corporate credit unions. The complaint alleged that the additional information requested in the form went beyond NCUA's current Office of Management and Budget (OMB) information collection approval under the Paperwork Reduction Act (PRA). NCUA management explained that its need for the additional information was critical in light of the financial crisis facing corporate credit unions and that the new collection might have qualified for an emergency clearance. Nevertheless, NCUA's Office of Corporate Credit Unions agreed to assemble a submission to OMB to meet the PRA requirements for the additional collection of information. We closed this case with a letter to the Assistant Director, GAO FraudNet Operations, Forensic Audits and Special Investigations section.

c. *Sexual Harassment (09-I-R4-03; 09-I-R4-04)*

The OIG investigated, reported on, and closed a case involving allegations it received that two NCUA examiners, respectively, sexually harassed two credit union employees. In one instance, the OIG determined that the allegation was a misunderstanding between the credit union employee and credit union management. The named complainant explained to the OIG investigator that at no time did she view the examiner's conduct as harassing or inappropriate. The facts the OIG developed confirmed the lack of a viable complaint. We closed the case with a memorandum to file.

In the second case, the OIG determined that (1) the language used by the examiner did not rise to the level of sexual harassment; and (2) the charge that the examiner inappropriately touched the employee's elbow could neither be substantiated nor conclusively disproved. With regard to the first charge, the OIG reported that the examiner's language, while it did not constitute sexual harassment, could be viewed as inappropriate. The OIG issued an ROI and forwarded it to agency management.

d. *Unprofessional Behavior (09-I-R4-06; 09-I-R4-07)*

The OIG received a complaint that two examiners exhibited unprofessional behavior during an examination on credit union premises. The complaint also alleged a conflict of interest on the part of one of the examiners.

In the case of the first examiner, the investigation concluded that the examiner likely made some or all of the comments characterized by the complainant as unprofessional. We concurred that the use of such language during an examination could be viewed as unprofessional and inappropriate conduct for an NCUA examiner. We issued an ROI and referred the matter to management for appropriate action.

In the second case, the information we developed supported neither a conflict of interest charge nor the allegation of unprofessional behavior. We issued an ROI which we transmitted to management.

e. *Misuse of Government Email* (09-R-R9-08)

We received a complaint forwarded by the GAO FraudNet Operations Hotline that an OIG employee was improperly displaying his NCUA email address on a website for a personal business. The personal business involved offering tutoring services for high school students. We found that on the website in question, the employee used his NCUA email address as the contact information address. As a result of our inquiry, Management counseled the employee on the relevant NCUA Instruction regarding Use of Government Property. The employee promptly removed all references to his NCUA email address from the website. The OIG closed this matter with a letter to the Assistant Director, GAO FraudNet Operations and a memorandum to file.

f. *Improper Promotion* (09-MIR-09-09)

The OIG reviewed an allegation that the NCUA Office of Human Resources (OHR) did not adhere to Office of Personnel Management (OPM) regulations or NCUA policy in processing an accretion of duties promotion for an OHR employee. We reviewed the matter and concluded that the evaluation conducted appropriately supported the promotion. However, our review also found that, with regard to recordkeeping practices in this particular matter and in general, OHR was not complying with either OPM or agency guidance. We issued a Management Implication Report (MIR) with corrective recommendations.

g. *Time and Attendance/Travel Voucher Fraud* (09-I-R1-10)

We received and investigated an allegation that an NCUA examiner had committed time and attendance as well as travel voucher fraud. The OIG's investigation substantiated the allegations, finding that the employee was falsifying time reports by reporting time worked in credit unions when she was not actually present there. She also falsely claimed the corresponding mileage for purported travel to and from the credit unions on her travel and expense reports. After the AUSA declined prosecution, the OIG interviewed the employee. A week after the interview, the employee voluntarily resigned. As a result, the OIG closed the investigation prior to the issuance of an ROI. An Investigative Memorandum was prepared and placed in the case file.

h. *Retaliation* (09-PI-R9-14)

A credit union official alleged that NCUA officials threatened to retaliate against him or the credit union that employed him based on disclosures the official had made to the media. The OIG inquired into the matter, and found no evidence to support the complainant's allegation. Moreover, the OIG learned that the NCUA Ombudsman was concurrently responding to the identical complaint. As a result, the OIG closed the matter in an Investigative Memorandum.

i. *Misconduct/Unethical Behavior* (09-PI-R9-16)

The OIG received a complaint from an individual, a former credit union internal accountant, who is alleged to have committed embezzlement. An adjudicatory proceeding, wherein NCUA is seeking a prohibition, restitution, and civil money penalties, is ongoing. The complainant

alleged that the NCUA Board and NCUA counsel engaged in misconduct and/or unethical behavior. Specifically, the allegation involved NCUA counsel and the NCUA Board Secretary's entry of an order of continuance for NCUA counsel to file a motion for summary judgment in the matter. The complaint also alleged a prohibited *ex parte* communication on counsel's part. We reviewed both matters and determined that the NCUA Board Secretary and NCUA Counsel acted in accordance with NCUA Rules and Regulations and that the communication described was not *ex parte*. We closed the matter with an Investigative Memorandum.

j. *System Access by Former Employee (09-PI-R9)*

As part of the 2009 *Federal Information Security Management Act of 2002* (FISMA) review, the OIG requested that the agency review and report on access controls at NCUA. The agency review revealed that a former NCUA employee still had an active user account, even though he had separated from the agency approximately six months earlier. The review identified that the former employee had recently accessed his NCUA Outlook mailbox account. No other significant activity was detected for the six month period after the employee left the agency. The NCUA Office of the Chief Information Officer (OCIO) closed the account and referred the matter back to the OIG.

Our review found that NCUA Regional offices and the NCUA OHR were inconsistent in notifying the OCIO when employees were terminated. The OIG investigator prepared a memorandum to file and provided the OIG Senior IT Specialist (Auditor) with a copy for inclusion of this information in the FISMA report.

k. *Gross Mismanagement (09-PI-R9-12)*

We received a complaint from a former OCIO contractor alleging gross mismanagement in OCIO. The complainant lodged the complaint after he was informed that his position was being eliminated under the contract NCUA had with his employer. Specifically, the complainant alleged that OCIO managers had grossly mismanaged the 5300 rewrite project, more commonly known as Credit Union online. Based on the results of our preliminary inquiry, we found insufficient evidence to substantiate the allegation and, therefore, we did not open a formal investigation. The OIG investigator closed the matter with an Investigative Memorandum to File.

l. *Wachovia HELOC Loan Participation Program (No case number)*

We reviewed a Wachovia Home Equity Line of Credit (HELOC) loan participation program that an outside credit union management and consulting company, [REDACTED], on behalf of its client, [REDACTED], marketed to federal credit unions (FCUs). The program as initially marketed and adopted by FCUs, had an overall adverse impact on credit unions across the nation. The OIG's review focused on one particular credit union's involvement in the Wachovia program. We looked at discussions between [REDACTED] and the NCUA Office of General Counsel (OGC) regarding the legal permissibility of the program; the FCU's participation in the program; and when the supervising Region became aware of the FCU's participation in the program. OIG Counsel drafted a memorandum, which we subsequently shared and discussed with the NCUA Chairman.

(S)
(F)

[REDACTED]

Our review discussed problems in the following areas:

- Credit risk
- Servicing
- Regulatory Compliance
- Membership Qualification
- Misunderstanding about Permissibility of the Program
- Implied Endorsement

Specifically, we noted that it appeared [REDACTED] aggressive marketing of the Wachovia HELOC program and disregard of NCUA OGC's legal advice, may have led the subject FCU, as well as several other credit unions, to believe that the program had NCUA's approval and was, therefore, permissible. We found that the FCU, in turn, failed in neither performing any due diligence nor seeking guidance from NCUA officials. We opined that the repercussions of [REDACTED] representations and selective omissions to FCUs, as well as its endorsement of the program, may also have led other FCUs to purchase the loans. We also found that, while OGC assiduously reviewed and considered all of the various legal issues presented by [REDACTED], the efficacy of its legal advice was eroded by [REDACTED] lack of candor about the firm's ongoing actions in marketing the program to FCUs.

(b)(5)

Finally, we found that the supervising Region, once it learned of the subject FCU's participation in the program, took immediate and aggressive steps to determine the extent of the program, understand the legal ramifications involved, and, working with OGC, address those legal issues so that the FCU could address the safety and soundness concerns with the program.

3. Information on threats or attempts to impede OIG communications with Congress concerning the OIG's budget.

You asked whether NCUA or any other federal official has ever threatened and/or otherwise attempted to impede the OIG's ability to communicate with Congress regarding the OIG's budget. Our office has never met with any such threatened or actual obstruction or resistance from NCUA or any other federal officials.

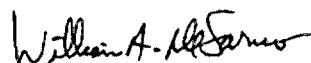
While the NCUA Board is responsible for approving our budget, the OIG formulates its own budgetary needs on an annual basis. At NCUA, the Board has consistently approved the OIG's budget requests so that the OIG's operational plans, activities, and accomplishments are equitably considered. Moreover, the NCUA Board has evenly applied agency budget reductions, redistributions, or pay raise absorptions to the OIG with due consideration of the effect that such application would have on the OIG's ability to carry out its statutory responsibilities. And, like the majority of IGs appointed by the President, the NCUA OIG's budget appears as a separate line item in the Agency's overall budget.

4. Outstanding recommendations.

As you requested, we are attaching herewith a copy of our response dated March 25, 2010, to the request from Ranking Member of the House Committee on Oversight and Government Reform, Representative Issa, for information on outstanding recommendations that have not been fully implemented.

We appreciate your efforts to ensure that Inspectors General have the independence necessary to carry out audits, evaluations, and investigations within our respective agencies. Should you wish additional information on any of the items we delineated above, please do not hesitate to contact me at (703) 518-6351 or my counsel, Sharon Separ, at (703) 518-6352.

Sincerely,

A handwritten signature in black ink that reads "William A. DeSarno". The signature is written in a cursive style with a large initial "W".

William A. DeSarno
Inspector General

Attachment



National Credit Union Administration

Office of Inspector General

Via Electronic Transmission

January 13, 2011

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security and Governmental
Affairs Committee
United States Senate
Washington, DC 20510

Dear Senators Grassley and Coburn:

This letter represents a follow-up to your letter of April 8, 2010, seeking information concerning the National Credit Union Administration (NCUA) Office of Inspector General's (OIG) independence in carrying out audits, investigations, and evaluations within NCUA. Specifically, I am responding to that portion of your letter requesting that I "provide [your] staff with biannual reports on all closed investigations, evaluations, and audits conducted by [my] office that were not disclosed to the public."

Information on non-public, closed investigations, evaluations, and audits.

Your letter requested that I provide biannual reports on all investigations, evaluations, and audits closed by this office. Because this is a follow-up to my initial response dated June 14, 2010¹, I am providing herein information for the period of May 1, 2010, through September 30, 2010.

¹ The June 14, 2010, letter covered reports issued between January 1, 2009, and April 30, 2010.

The audit reports my office has issued since May 1, 2010, are all publicly available. Consequently, this response details investigative reports, review/evaluation summary documents, and memoranda to file on closed matters for the time period requested, that were not made publicly available.

Please find below my summary of the reports, summary documents, memoranda, or correspondence we prepared during the reporting period.

a. Potential Violation of Fair Labor Standards Act (10-PI-R7-06)

A former contractor alleged that an NCUA official asked her to "work off the clock." Specifically, she alleged that she was asked to work 8 ½ hours per day and only claim 8 hours on her time report. The OIG inquired into the matter and found no evidence to substantiate the allegation. The OIG investigator closed the matter with an Investigative Memorandum to File.

b. Unprofessional Behavior (10-PI-R4-05)

The OIG received a complaint that an NCUA examiner had acted unprofessionally during an exam at a credit union. The OIG conducted a preliminary inquiry which found that while the examiner had, in fact, made unprofessional comments to credit union employees, his actions did not rise to the level of misconduct. The OIG closed the inquiry with a memorandum referring the matter to appropriate Regional office management for action.

c. Sexual harassment/misappropriation of funds/time fraud (10-PI-R3-04)

The OIG received two anonymous complaints alleging that an NCUA manager was behaving inappropriately with a private sector temporary female employee. Specifically, the complaint alleged that the manager was according the temporary employee preferential treatment based on her physical appearance and the manner in which she dressed, including inappropriately requesting a cash award for the employee. Moreover, the complaint alleged that the supervisor attempted to extend the temporary employee's work contract when there was inappropriate funding available in his office's budget. The complaint also referenced time fraud and persistent sexual harassment toward other federal female employees on the manager's part. Three days after the OIG received the complaint, the temporary employee's engagement with the agency ended and was not renewed.

After an initial inquiry, we concluded that the matter would be more appropriately handled by NCUA management as a performance matter. We closed the matter with a letter from me to the employee's supervisor advising him as such.

d. Misuse of official time/false claims/prohibited personnel practice (09-PI-R7-15)

The OIG received a complaint from an anonymous source alleging that an NCUA manager used staff to do personal work; had an outside business relationship with an unidentified staff member; provided advice to only one staff applicant regarding a vacant position in the office; and made unnecessary trips for personal reasons under the aegis of official agency travel. The complainant provided no supporting details for any of the allegations. The OIG inquired into this matter and found insufficient evidence to support the complainant's allegations and,

consequently, open a formal investigation. The OIG investigator closed the matter with an Investigative Memorandum to File.

e. Violation of Ethics Standards/Executive Branch Financial (09-I-R9-11)

The OIG opened this case based on a notification it received from a Federal Reserve Board Special Agent, acting in his capacity as a member of a Federal Bureau of Investigation (FBI) white collar crime task force, that the NASA Federal Credit Union had filed a Suspicious Activity Report (SAR) naming a senior level NCUA manager as a suspect. The SAR characterized the suspicious activity as (1) Bank Secrecy Act/Structuring/ Money Laundering; and (2) Consumer Loan Fraud. The OIG's investigation into the initial allegations led to a review of the subject's official filing of (1) United States Office of Government Ethics (OGE) Form 450, *Confidential Financial Disclosure Report*; and (2) SF 85P, *Questionnaire for Public Trust Positions*. The OIG expanded its investigation to include issues which might have constituted a violation of 18 U.S.C. § 1001, False Statements, based on the information (or lack thereof) provided on these forms. As such, the OIG also considered administrative and ethical violations tied to the employees' obligation to truthfully report information on official documents.

After we received a declination of the criminal charges from the Assistant United States Attorney on the BSA violations and the bank fraud, we proceeded with an administrative investigation. The investigation did not develop evidence to support the alleged BSA violations or the bank fraud. The investigation did find that the subject omitted reportable information on his OGE Form 450 and the SF 85P. However, the investigation did not develop sufficient evidence to substantiate that he did so knowingly and willfully, as required for a criminal false statement violation.

The investigation concluded that the subject's actions violated ethical standards of conduct for Federal employees. Specifically, his failure to disclose certain assets, liabilities and outside interests on his OGE Form 450 violated 5 CFR Part 2634, Subpart I, *Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture*, which outlines the responsibilities of filers of confidential financial disclosure reports. Additionally, the investigation found that he violated 5 CFR §§ 2635.101(a) and (b)(1), (b)(12), and (b)(14), the *Standards of Ethical Conduct for Employees of the Executive Branch—Basic Obligations of Public Trust*, by his failure to avoid "actions creating the appearance that [he was] violating the law or the ethical standards."

The OIG issued a final Report of Investigation (ROI) to agency management with a need to know, as well as NCUA Board members. The employee retired shortly after the report was issued, prior to agency deliberations regarding proposed disciplinary action.

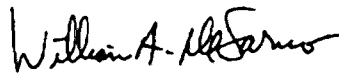
f. GAO FraudNet Referral (10-R-R9-03)

The OIG received an anonymous referral, dated April 21, 2010, from the United States Government Accountability Office (GAO) FraudNet alleging that the NCUA, as custodian of the National Credit Union Shared (sic) Insurance Fund (NCUSIF), had failed to present a CPA Opinion for 2008 or 2009 as required by the Federal Credit Union Act. The OIG is the organization within NCUA responsible for contracting with an independent public accounting firm to perform the financial statement audits of the NCUA Operating Fund, the Share Insurance

Fund, the Central Liquidity Facility and the Community Development Revolving Loan Fund. At the time of the referral, the OIG was working assiduously with the accounting firms responsible for the 2008 and 2009 audits, Deloitte & Touche LLP and KPMG LLP, respectively. The audit results for both years were published on June 12, 2010. The firms both expressed unqualified opinions, stating that the financial statements presented fairly, in all material respects, the financial position of the NCUA Operating Fund, the Share Insurance Fund, the Central Liquidity Facility, and the Community Development Revolving Loan Fund. The referral was closed with a memo to file.

We appreciate your efforts to ensure that Inspectors General have the independence necessary to carry out audits, evaluations, and investigations within our respective agencies. Should you wish additional information on any of the items we delineated above, please do not hesitate to contact me at (703) 518-6351 or my counsel, Sharon Separ, at (703) 518-6352.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. DeSarno". The signature is written in a cursive, slightly slanted style.

William A. DeSarno
Inspector General



**National Credit Union Administration
Office of Inspector General**

Via Electronic Transmission

June 1, 2011

The Honorable Charles E. Grassley
Ranking Member
Judiciary Committee
United States Senate
Washington, DC 20510

The Honorable Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security and Governmental
Affairs Committee
United States Senate
Washington, DC 20510

Dear Senators Grassley and Coburn:

This letter represents a follow-up to your letter of April 8, 2010, seeking information concerning the National Credit Union Administration (NCUA) Office of Inspector General's (OIG) independence in carrying out audits, investigations, and evaluations within NCUA. Specifically, I am responding to that portion of your letter requesting that I "provide [your] staff with biannual reports on all closed investigations, evaluations, and audits conducted by [my] office that were not disclosed to the public." Because this is a follow-up to my most recent report dated January 13, 2011, I am providing herein information for the period October 1, 2010, through March 31, 2011.

All of the audit reports the NCUA OIG has issued since October 1, 2010, are publicly available. Consequently, my response below details investigative reports, review/evaluation summary documents, and memoranda to file on closed matters that the OIG did not make publicly available.

- a. *Standards of Ethical Conduct for Employees of the Executive Branch (10-I-R2-07)*

The OIG received an allegation that an NCUA employee was using his position as a credit union examiner for private gain. Specifically, the complainant—a credit union official—forwarded an email that the employee had sent to the credit union. In the email, the NCUA

employee contested the credit union's decision regarding a collection action the credit union had initiated against him in his personal capacity. The NCUA employee stated in the email that he was an NCUA examiner and was aware of information about the credit union's activities that might constitute illegal lending practices. The credit union official inferred from this statement and others that the NCUA employee might be making a veiled threat of agency action against the credit union, should the credit union pursue the collection action.

The OIG investigated the matter and found the evidence insufficient to support an ethics violation. The employee retired one month after the OIG closed the matter with an Investigative Memorandum to the file.

b. Fraud and Related Activity in Connection with Computers (10-I-R7-09)

The OIG investigated an allegation that an employee had improperly accessed her supervisor's work email. The OIG investigated the allegation, including enlisting the services of another agency to conduct a forensic analysis of the subject's computer, and found no evidence to support the allegation. The investigation was closed with an Investigative Memorandum to the File.

c. Misuse of Government-Issued Charge Card (11-I-R9-04)

The OIG received and investigated an allegation that an NCUA [REDACTED] used his government-issued charge card for personal expenses in violation of agency policy. The employee was directly responsible for the management and reporting of the [REDACTED]. The investigation into the initial allegations revealed that the employee had also failed to accurately account for a transit subsidy reimbursement and an air fare reimbursement. After the investigating agent received a declination of prosecution from the Assistant United States Attorney (AUSA), the OIG conducted an administrative investigation.

The OIG reviewed the subject's government-issued charge card statements for the period from February 2009, through February 2011. The investigation documented over 400 transactions with a total value of over \$22,000 in charges for personal expenses, nearly \$10,000 of which represented ATM cash disbursements and related fees. The employee used his position to alter the capabilities of his account, thereby allowing him to make repeated ATM withdrawals. In his position as [REDACTED], the employee was aware of NCUA's policy that card holders do not have authorization to make ATM withdrawals, except in pre-approved cases of international travel. The employee also used his position to remove his name from recurring delinquency reports [REDACTED], thereby extending the period he was able to misuse his government-issued credit card.

The investigation also reviewed the employee's travel vouchers for the period from 2009 through 2011. The OIG found that in one instance the employee claimed full reimbursement for air fare that he had actually been able to reschedule at a lower cost.

(b) (7) (C)

The reimbursement claim did not note the lower cost but, rather, claimed the earlier, greater amount. He also claimed transit subsidies for work days when he did not use public transportation.

These actions constituted violations of 5 CFR Part 2635—*Standards of Ethical Conduct for Employees of the Executive Branch*, section 2635.704 – Misuse of Government Property and the *NCUA Travel Manual*. He also violated the NCUA/NTEU Collective Bargaining Agreement, Article 14, Section 18 – Government Issued Charge Card and Article 9, Section 6 – Transportation Subsidies.

The OIG issued a Report of Investigation to agency management. The employee resigned from his position shortly thereafter.

d. Review of NCUA Conservatorship Share Withdrawal Freeze Policy

The OIG Counsel reviewed the actions of NCUA staff involved in drafting, advising on, and implementing a share freeze policy during a week-long conservatorship at a federal credit union. At the end of the week, the NCUA Board determined that the effects of pervasive fraud perpetrated over the years within the credit union necessitated its liquidation. The week-long share freeze policy was found to have been applied inconsistently with resulting inequities. As a result, numerous conservatorship accountholders filed claims for uninsured shares. Some accountholders based their appeals on the fact that similarly-situated accountholders were able to protect shares during the conservatorship because the conservatorship staff permitted deviations from the share freeze policy for various reasons.

The OIG Counsel limited her review to: (1) analyzing what situations the individuals who crafted the share withdrawal policy anticipated the conservator would encounter once the share freeze went into effect; (2) determining, where possible, who authorized and/or approved—both on-site at the credit union and/or up the chain of command elsewhere at NCUA—withdrawals over the \$5,000 per week limit; and (3) reviewing the conservatorship team's decision to deny institutional member withdrawal requests.

The OIG Counsel concluded that there was a thorough and considered debate about the share freeze policy among the parties throughout NCUA who crafted the letter advising the credit union members about the policy. Nevertheless, her review found that the several exceptions to the policy that the NCUA considered in advance warranted more detailed consideration by the agency and greater articulation to credit union members. She opined that the parties should have developed—in tandem with the letter to credit union members advising them of the share freeze policy—written parameters detailing how conservatorship and credit union staff should impose the withdrawal limitation. OIG Counsel found that such parameters as existed were undeveloped and, to the extent they were identifiable, inconsistently applied.

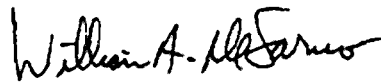
Likewise, the review determined that the inconsistencies in how the policy was applied stemmed in large part from a lack of clear guidelines dictating the scope, conditions, and

exceptions to the share freeze policy. OIG Counsel drafted a memorandum, which I subsequently shared with the NCUA Board, summarizing the review findings and recommending that the agency finalize a then-draft Share Freeze Policy for those rare instances where there is a need for a withdrawal freeze during a conservatorship.

I am also attaching herewith a copy of my response dated April 26, 2011, to the request from the Chairman of the House Committee on Oversight and Government Reform, Representative Issa, for information on outstanding recommendations that have not been fully implemented.

I appreciate your efforts to ensure that Inspectors General have the independence necessary to carry out audits, evaluations, and investigations within our respective agencies. Should you wish additional information on any of the items I delineated above, please do not hesitate to contact me at (703) 518-6351 or my counsel, Sharon Separ, at (703) 518-6352.

Sincerely,

A handwritten signature in black ink that reads "William A. DeSarno". The signature is written in a cursive style with a large, prominent initial "W".

William A. DeSarno
Inspector General

Attachment



**National Credit Union Administration
Office of Inspector General**

December 21, 2011

The Honorable Charles E. Grassley
Ranking Member
Judiciary Committee
United States Senate
Washington, DC 20510

The Honorable Tom Coburn
Ranking Member
Permanent Subcommittee on Investigations
Homeland Security and Governmental
Affairs Committee
United States Senate
Washington, DC 20510

Dear Senators Grassley and Coburn:

This letter represents a follow-up to your letter of April 8, 2010, seeking information concerning the National Credit Union Administration (NCUA) Office of Inspector General's (OIG) independence in carrying out audits, investigations, and evaluations within NCUA. It is my understanding that OIGs should consider your request as "recurring."

Based on previous telephonic discussions between representatives of the Council of Counsels to Inspectors General (CCIG) and members of your staff, I am responding to those portions of your letter requesting that I provide (1) biannual reports on all closed investigations, evaluations, and audits conducted by my office that were not disclosed to the public; and (2) information regarding whether there are any OIG recommendations with potential monetary benefits that the NCUA has not yet fully implemented. Because this is a follow-up to my most recent report dated June 1, 2011, I am providing herein information for the period April 1, 2011, through November 30, 2011.¹

Undisclosed Reports

All of the audit reports the NCUA OIG has issued since April 1, 2011, are publicly available. Consequently, my response below details investigative reports, management advisory reports, and memoranda to file on closed matters that the OIG did not make publicly available.

¹ My June 1, 2011, letter provided information for the period October 1, 2010, through March 31, 2011

a. *Misuse of Government Property; Misuse of Official Time; Violation of Basic Obligation of Public Service; Violation of Computer Security Rules of Behavior (11-I-R-04-05)*

In May 2011, the Federal Bureau of Investigation (FBI) contacted the OIG seeking information about and assistance in an ongoing FBI investigation of an NCUA employee who had allegedly used his government email to contact an online undercover agent posing as a 13 year old girl. With the FBI's approval, the OIG opened a parallel, administrative investigation into the employee for misuse of his government computer, misuse of official time, violation of a basic obligation of public service, and violation of the agency's policy on computer security and use. The OIG issued a report of investigation dated September 6, 2011, to agency management. Based on the OIG's report, the agency issued a proposed action to remove the employee from federal service. The employee entered into a settlement with the agency, wherein he agreed to resign from Federal service effective December 31, 2011. The FBI case is ongoing.

b. *Bank Fraud (10-I-R9-08)*

On July 10, 2010, the Office of Inspector General (OIG) received an allegation concerning a recent NCUA hire, a [REDACTED] who had recently relocated to the Washington, D.C. metropolitan area, from Charlotte, North Carolina, after he accepted employment with NCUA. The employee had previously worked in the private financial sector. The allegation stated that the employee had hidden financial assets so that he would not have to pay additional money to the bank holding the mortgage on his home in Charlotte, when the house was sold in a short sale. At the time the OIG received the allegation, the employee's house was still for sale, even though he had relocated to the D.C. area.

(b)(7)(C)

The OIG's investigation found no evidence to support the allegation. The OIG issued a report of investigation on June 29, 2011, summarizing the investigation and closing the case.

c. *Negotiating for Employment (11-I-RIV-01)*

The OIG received an allegation that an employee was seeking employment with a credit union while conducting an examination on-site. In a report of investigation dated May 16, 2011, the OIG reported that, while the employee's conduct at the credit union in question did not rise to the level of negotiating for employment under the *Standards of Ethical Conduct for Employees of the Executive Branch*, it was inappropriate and unprofessional. In response to the OIG's report, the agency issued the employee a letter of reprimand.

d. *Merit Promotion Practices (11-MAR-R9-03)*

Based on a referral from an anonymous NCUA employee, this office initiated an investigation into allegations the NCUA Office of Human Resources (OHR) did not adhere to its own internal policies in advertising a vacancy for a Senior Capital Markets

Specialist (Market Risk) position. Specifically, while the first page of the vacancy announcement identified the duty station for the advertised position as Alexandria, Virginia, there were references to different duty stations elsewhere in the same vacancy announcement. We concluded that this inconsistency may have prevented candidates from applying who were otherwise qualified, because they did not want to relocate to Alexandria, VA. The OIG issued a Management Advisory Report (MAR) advising the agency OHR to instill more stringent measures for ensuring that that NCUA abide by its merit promotion procedures more stringently.

e. Inappropriate Examiner Conduct at Credit Union (10-I-R3-10)

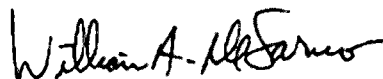
Based on a referral from a credit union manager, the OIG initiated an investigation into allegations of inappropriate comments and gestures made by an NCUA Examiner in the course of an examination at the subject credit union. The information developed in the OIG's investigation could neither conclusively substantiate nor disprove the allegations. Nevertheless, between the credibility of the statements made by credit union officials and the employee's partial confirmation of some of those statements, the investigation reasonably raised the specter that the Examiner's conduct at the credit union was questionable, if not outright inappropriate and unprofessional. The OIG issued a report of investigation dated May 16, 2011, noting, among other things, that as a CU-12 Examiner, the employee's conduct toward and interactions with credit union officials should be above reproach at all times. The OIG forwarded the report to management for appropriate disciplinary action, as appropriate.

Outstanding Recommendations

For the period from April 1, 2011, through November 30, 2011, there are no outstanding OIG recommendations with potential monetary benefits that have not been fully implemented by the NCUA.

I appreciate your efforts to ensure that Inspectors General have the independence necessary to carry out audits, evaluations, and investigations within our respective agencies. Should you wish additional information on any of the items I delineated above, please do not hesitate to contact me at (703) 518-6351 or my Counsel, Sharon Separ, at (703) 518-6352.

Sincerely,



William A. DeSarno
Inspector General