



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

IOWA DEPARTMENT OF COMMERCE
DIVISION OF CREDIT UNIONS
JAMES E. FORNEY, SUPERINTENDENT

January 8, 2007

Ms. Ingrid Hill,
Mr. Dan Lechay,
Mr. Timothy E. Taffe, *et al*
The Committee for a Fair and Open Credit Union
726 Iowa Avenue
Iowa City, Iowa 52240

Re: University of Iowa Community Credit Union, Amendment to Articles of
Incorporation/Certificate of Organization, Changing Credit Union Name

Dear Ms. Hill, Messrs. Lechay and Taffe, and Committee Members:

We reviewed information provided us by several University of Iowa Community Credit Union [UICCU] members, including an article in the November 2, 2006 *The Daily Iowan* titled "Credit union's name change still drawing fire." We also reviewed documentation presented us by UICCU management in response to a November 9, 2006 inquiry and request for information.

The purpose of our inquiry was to investigate the complaint of a credit union member regarding the procedures and practices followed during the University of Iowa Community Credit Union's Special Membership Meeting, held October 4, 2006 to vote on an amendment to the Articles of Incorporation – Certificate of Organization to change the credit union name to Optiva Credit Union.

Iowa Code § 533.2(1) (2005) is the statutory language authorizing amendments to credit union Articles of Incorporation – Certificate of Organization – "*Articles of incorporation may be amended by a favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.*"

Findings:

Based upon documentation provided the Iowa Credit Union Division by the credit union and various other persons, we find:

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- The September 19, 2006 Special Meeting notice issued by the University of Iowa Community Credit Union provided adequate information of the 6:00 p.m. membership meeting, called to vote on a proposed name change, to be held at the Quality Inn and Suites, Iowa City, Iowa.
- The doors were opened at 5:00 p.m. at the Quality Inn & Suites, and the UICCU staff followed its usual membership meeting procedures by distributing ballots to eligible voting members as they entered the voting location from 5:00 p.m. up to the close of balloting.
- Following its usual procedures, the UICCU staff collected completed ballots throughout the course of evening beginning at 5:00 p.m. and up until the close of balloting.
- An undetermined number of completed ballots were accepted prior to commencement of the 6:00 p.m. membership meeting.
- An undetermined number of members appear to have voted and turned in completed ballots, but not stayed until 6:00 p.m., the start of the scheduled membership meeting.
- The October 4, 2006 Special Meeting Minutes state UICCU Chairman Borg called the meeting to order at 6:00 p.m. as prescribed in the September 19, 2006 meeting notice.
- All completed ballots collected by UICCU staff up to the close of the October 4th Special Meeting were provided to representatives of McGladrey & Pullen who counted the ballots in the visual presence of the UICCU membership, and announced the results prior to the close of the meeting.
- The October 4, 2006 Special Meeting adjourned at 8:15 p.m.

Conclusion:

It appears the University of Iowa Community Credit Union made a good faith effort to properly conduct the special membership meeting to vote on an amendment to the credit union's Articles of Incorporation – Certificate of Organization. However, it also appears an unconventional procedure is likely to have been followed in the balloting at the October 4, 2006 University of Iowa Community Credit Union special membership meeting.

Based on information furnished the Division, the possibility exists that an undetermined number of ballots were accepted prior to the commencement of the meeting from members who were not present at any time during the scheduled meeting. If this did in fact occur, it subjects the vote to challenge as to whether it conformed to Iowa Code § 533.2(1) (2005) which states the "Articles of incorporation may be amended by a favorable vote of a majority of the members *present at a meeting*." [emphasis added.]

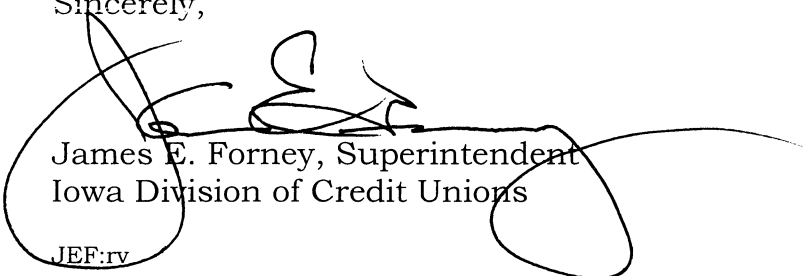
It is not possible to determine from the information we have reviewed whether or not otherwise legitimate ballots¹, cast and collected prior to the 6:00 p.m. commencement of the special membership meeting from members who were not present² at the meeting, were included in the final vote count on the name change issue. Because all ballots were commingled it appears impossible to ascertain an actual number of such ballots.

Although the Division of Credit Unions finds that an unconventional balloting procedure appears to have been followed at the University of Iowa Community Credit Union Special Meeting, the Division is reluctant to involve itself in matters of credit union governance. Whereas the Division's jurisdiction relating to member services, financial safety and soundness, and the adequacy of management is unquestionable, the authority of the Division to resolve a governance dispute is less clear.

It appears proponents and opponents alike had equal opportunity to be present the evening of October 4, 2006 and to be influenced or dissuaded on the name change proposal. There were three-hundred-ninety eligible voting members who came to the Quality Inn & Suites to vote on the name change proposal, one-hundred-ninety-eight voted in favor of the name change and one-hundred-ninety-two voted in opposition.

In conclusion, the name change amendment to the Articles of Incorporation – Certification of Organization, as presented by the Board of Directors, was approved by the members. No action by the Division is appropriate at this time.

Sincerely,



James E. Forney, Superintendent
Iowa Division of Credit Unions

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C: IDCU Office file
IDCU SE & EIC

¹ A ballot distributed to and cast by a member eligible in accordance with Iowa Code §§ 533.7 & 533.13(2) (2005) to vote at a legally constituted meeting is considered a "legitimate ballot." However, the legitimacy of such ballot may be subject to challenge if the voting member is not "present" at the meeting as it appears is required by Iowa Code § 533.2(1) (2005).

² A member is considered to be "present" at the special membership meeting if the member is in the presence of other credit union members during the time the issue is formally under consideration at the meeting.