

Opinion 96-15 (Redacted version)

October 29, 1996

“A” Credit Union

Subject: Sublease with “B” Travel;
Opinion no. 96-15

Dear _____:

This letter is in response to your letter dated October 4, 1996, concerning the proposed sublease of space in the lobby of “A” Credit Union (ACU) to “B” Travel. Our rules, at Chapter 208-440 WAC (copy enclosed), address these types of arrangements with other businesses. As we recently discussed, we have the following issues with the sublease:

1. “ACU” may allow “B” Travel to use its space, facilities, or other property, as long as the property used is a small proportion of the property occupied by “ACU”. WAC 208-440-040, -050. In this case, the space sublet to B Travel is about 8% of the space occupied by “ACU”. This satisfies the “small proportion” requirement of the rule.
2. “ACU” should make best efforts to include wording in the sublease to the effect that “B” Travel will hold “ACU” harmless from any claim arising out of the sale or use of “B’s” products and services. WAC 208-440-050.
3. The term of the sublease should be reasonably limited, or subject to termination (with an appropriate notice period) without cause. In this case, a reasonable term would be no more than one year, not including any possible renewals.
4. “ACU” may permit “B” Travel to contact “ACU’s” membership to offer products and services. WAC 208-440-050.
5. Signs, flyers, newsletters, marketing materials, and the like may not imply that “B” Travel’s products and services are for sale directly by “ACU”, or that “ACU” expressly endorses or

vouches for “B’s” products and services. WAC 208-440-020, -040, -050. Moreover, these materials should be carefully drafted to:

- a. Include, if feasible, a disclaimer that “ACU” does not endorse or vouch for “B’s” products and services, and is not responsible for such products and services. (See related disclaimers in the enclosed page from the USPS “Mover’s Guide”); and
- b. Avoid any unnecessary implication that “ACU” is responsible for “B’s” products and services. For example, the word “partners” should be removed from the draft of the advertising you provided. Moreover, the phrase “hand-in-hand” should be reviewed by your attorney to see if this phrase too could create an unreasonable level of exposure for “ACU” from the arrangement with “B”.

“ACU” may pay its reasonable share of the cost of joint marketing materials. However, it may not pay for materials that market “B” Travel’s products and services solely. WAC 208-440-020, -050.

6. “ACU” should inquire with its blanket bond carrier to ensure that coverage is not adversely affected by the arrangement with “B” Travel.

If you have any further questions about the regulatory requirements that may apply to the proposed sublease with “B”, please contact me at (360) 902-8778.

Sincerely,

J. Parker Cann
Assistant Director