

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

Olympia Mortgage Corporation

Docket BD-03-06

Insurance Claim

Decision and Order on Appeal

Decision

This matter comes before the National Credit Union Administration Board (Board) pursuant to 12 C.F.R. §745.202, as an administrative appeal of the determination by the Agent for the Liquidating Agent of Midwood Federal Credit Union concerning the amounts of Olympia Mortgage Corporation's (Olympia's) accounts and loan. Midwood was a federally chartered, federally insured credit union located in Brooklyn, New York. In November 2004, NCUA, acting pursuant to its statutory authority, placed Midwood into conservatorship and appointed itself as conservator, pursuant to 12 U.S.C. § 1786(h)(1)(A). The following month, at its December 16, 2004 meeting, the NCUA Board determined that Midwood was insolvent, and appointed itself as liquidating agent. NCUA's Asset Management and Assistance Center (AMAC) was in turn appointed as the agent for the liquidating agent¹. Olympia is currently in a court-ordered receivership, and its appeal was filed by the receiver. The appeal challenges AMAC's determination, arguing that that Olympia's receiver has not had adequate access to Midwood Federal Credit Union's (Midwood's) records to assess the validity of the determination.

Background

Olympia generated significant volumes of transactions on various accounts at Midwood FCU. Prior to the liquidation of Midwood, Olympia was placed into receivership itself, under an order of the U.S. District Court for the Eastern District of New York, on the motion of the Federal National Mortgage Association.

¹ All references in this Decision to AMAC refer to AMAC staff in its capacity as agent for the liquidating agent.

The receiver alleges that Olympia's former principals engaged in various illegal, fraudulent and tortious acts and has filed suit against the former principals and their various family members. The former President of Midwood also served as President of Olympia. Olympia and Midwood were located at the same address.

The receiver states that following her appointment, she retained, among other professionals, forensic accountants to investigate Olympia's affairs. In her appeal before the NCUA Board, she describes her extensive review of Olympia's financial records, but states that due to fraud and deliberate money laundering efforts by Olympia's principals, she required access to Midwood records to fully investigate Olympia's transactions. AMAC, in fact, provided the receiver with unprecedented access to Midwood records, including permitting her to take possession of original Midwood files, and permitting her to come to its offices to review boxes of documents. The receiver benefited from extensive cooperation from NCUA staff who, in spite of agency policy requiring a written agreement to do so, shared Midwood records with her at the earliest opportunity, even before a written agreement could be completed. Notwithstanding her access to Midwood records, the receiver never provided AMAC any additional information about Olympia's accounts.

Based on an exhaustive review of the records located at Midwood, AMAC determined that 22 share accounts were owned by Olympia. Many account records were incomplete and missing signature cards, but each of the 22 accounts AMAC attributed to Olympia bore the same tax identification number; that of Olympia Mortgage Corporation. AMAC also determined that the balance on a delinquent loan outstanding to Olympia Mortgage Corporation was \$195,840.37.

On February 18, 2005, AMAC provided the receiver for Olympia with account statements for each account of Olympia and requested she provide any additional information for the share insurance determination. On October 14, 2005, AMAC informed Olympia that it had made an initial determination of Olympia's aggregate share balance to be \$910,722.96 and its loan balance to be \$195,840.37. On November 10, 2005, Olympia's receiver appealed the initial determination of the Liquidating Agent. The Liquidating Agent responded to Olympia's request for reconsideration and requested Olympia to provide additional documents to facilitate its review of Olympia's request. In its letter the liquidating agent provided Olympia additional time to submit further information or records to support its position, reiterating its invitation to the receiver to visit AMAC offices to review the Midwood records, after which the Agent would have to make its final determination based on the available evidence. On February 17, 2006, the Liquidating Agent made its final determination of Olympia's account balances, upholding its initial determination in the absence of any information to the contrary.

Appeal

On April 14, 2006, the receiver for Olympia submitted its appeal to the NCUA Board. In its appeal, Olympia raised several issues ancillary to the insurance appeal before the NCUA Board. These issues were fully addressed in the Liquidating Agent's letter dated February 17, 2006, conveying its final determination on Olympia's account balances, and in a separate letter from NCUA Associate General Counsel Allan Meltzer dated June 21, 2006. The only remaining issue to be considered by the Board is the propriety of AMAC's share insurance determination.

The determination made by AMAC concerning the Olympia share accounts and loan were based on the records available at Midwood upon liquidation. The Olympia receiver, who had access to the Midwood computer system, and was granted unprecedented access to other books and records of Midwood, never offered any evidence to contradict AMAC's findings, despite multiple opportunities to do so. The receiver provided no evidence beyond its unsupported allegations that the Olympia loan was the product of fraudulent transfers or money laundering activities.

Insurance Analysis

Olympia, a corporate member, had several share accounts with Midwood FCU. Its funds totaled \$910,722.96. Section 745.6 of the NCUA Rules and Regulations (NCUA's share insurance regulation found at 12 C.F.R. §745.6) provides in part as follows:

Accounts of a corporation, partnership, or unincorporated association engaged in any independent activity shall be insured up to \$100,000 in the aggregate.

The Olympia Mortgage Corporation accounts are insured up to \$100,000 in the aggregate pursuant to §745.6. This is the only provision for insurance coverage of funds held in a corporate account.

Order

For the reasons set forth above, it is ORDERED as follows:

The Board upholds the Liquidating Agent's decision and denies Olympia Mortgage Corporation's appeal.

The Board's decision constitutes a final agency determination. Pursuant to 12 CFR 745.203(c), this final determination is reviewable in accordance with the provisions of Chapter 7, Title 5, United States Code, by the United States Court

of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the credit union's principal place of business was located. Such action must be filed not later than 60 days after the date of this final determination.

So **ORDERED** this 21st day of September 2006 by the National Credit Union Administration Board.

Mary Rupp
Secretary of the Board