

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

**Milton Platt,  
Judicial Hearing Officer**

*Docket BD-03-07*

Insurance Claim

**Decision and Order on Appeal**

**Decision**

This matter comes before the National Credit Union Administration Board (Board) pursuant to 12 CFR 745.202, as an administrative appeal of the denial of an insurance claim by the Agent for the Liquidating Agent of Central Brooklyn Federal Credit Union (FCU). The appeal is made by Milton Platt, a Judicial Hearing Officer (JHO), in his court-appointed capacity to audit the account of the guardian of the property of xxxxxxxxxxxxxxxx, an incapacitated person, for whom an account was held at the FCU.

**Background**

Central Brooklyn Employees Federal Credit Union

Central Brooklyn Employees FCU was a community based credit union. The FCU was chartered in 1993. The NCUA Board placed the FCU into involuntary liquidation on August 27, 2002 and named itself as liquidating agent. Staff within NCUA's Asset Management and Assistance Center (AMAC) was named as agent for the liquidating agent.<sup>1</sup> AMAC entered into a Purchase and Assumption Agreement with People's Alliance Federal Credit Union.

Xxxxxxx Account

On June 14, 1995, a share account was established for xxxxxxxxxxxxxxxx at the FCU. Xxxxxxxxxxxxxx was the guardian of the property of xxxxxxxxxxxxxxxx and the account contained xxxxxxxxxxxxxxxx funds. The share account was established with an \$80,000 deposit. A statement from the FCU covering the period of June 1, 1995 through December 3, 1996 indicates the \$80,000 deposit on June 14, 1995, and a transfer of \$40,000 to a share certificate (a sub-account

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<sup>1</sup> All references to AMAC throughout this Decision refer to it in its capacity as agent for the liquidating agent.

for the same member) on the same date. The share account was drawn down reaching a zero balance on April 29, 1996. The share certificate had a \$40,000 balance on December 3, 1996. On May 5, 1997, the FCU sent xxxxxxxxxxxx a confirmation of share balance as of December 31, 1996. This confirmation indicates a zero balance in the share account and a \$40,000 balance in the share certificate sub-account. This confirms the account information in the statement. On September 25, 2002, attorney Grace Colson was appointed to assist in marshalling the assets of xxxxxxxxxxxx. Ms. Colson contacted AMAC who informed her on January 14, 2003 that there was a zero balance in the Xxxxxxx account from August 10, 1999 to August 27, 2002 (date of liquidation). In the same letter, AMAC requested Ms. Colson gather any information evidencing the continued existence of the account and submit it to them. Ms. Colson did not respond to this request until January 22, 2007; she submitted no evidence supporting the continued existence of funds in the xxxxxxxx account. There was no evidence showing any funds in an account after the FCU confirmation sent on May 5, 1997.

On March 5, 2007, AMAC sent Ms. Colson its initial determination, stating that there was a zero balance in the xxxxxxxxx share certificate account from at least August 10, 1999 forward. On March 9, 2007, Ms. Colson submitted a request for reconsideration to AMAC. AMAC denied the request for reconsideration on April 11, 2007.

### **Appeal and Analysis**

On August 11, 2006, JHO Milton Platt was appointed by the Supreme Court of the State of New York to audit the final accounting of xxxxxxxxxxxxxxxxx funds. The JHO filed an appeal with the NCUA Board on May 4, 2007 as part of his auditing duties. The JHO submitted no further evidence or documentation with his appeal. The JHO is seeking information we have on the disposition of the \$40,000 placed in the share certificate account and appeals AMAC's determination.

The only documentation available indicates a zero balance in the xxxxxxxx account both prior to and at the time of liquidation. The account statement reflects that the \$40,000 in the share account was drawn down to a zero balance between June 14, 1995 and April 26, 1996. Neither Ms. Colson nor the JHO question the withdrawal of these funds. The May 5, 1997 FCU confirmation indicates a zero balance in the share account and a \$40,000 balance in the share certificate sub-account as of December 31, 1996. AMAC records indicate a zero balance in the share certificate account after August 10, 1999. There is no record of how and when the funds in the share certificate were withdrawn; however there is also no evidence of fraud or other illegal action by credit union staff regarding the \$40,000 placed in the share certificate account. Based on the available documentation, there was a zero balance in the xxxxxxxx account from at least August 10, 1999 forward.

## **Order**

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

The Board upholds the Agent for the Liquidating Agent's decision and denies the Judicial Hearing Officer'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 district court for the Federal judicial district 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 25th day of October 2007 by the National Credit Union Administration Board.

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Mary Rupp  
Secretary of the Board