

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

XXXXXXXXXXXXXX

*Docket BD-07-05*

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 D. Edward Wells Federal Credit Union, denying XXXXXXXXXXXXXXXXXXXX claim.

**Background and Claim**

D. Edward Wells Federal Credit Union (FCU) was chartered in 1959. It was a low-income credit union chartered to serve the members of the Mt. Calvary Baptist Church and Brotherhood of Springfield, MA, immediate family members and organizations of such persons. The FCU historically had persistent problems in the areas of capital adequacy, earnings and management. The FCU was placed in conservatorship on February 21, 2003. During the conservatorship, NCUA staff discovered that the FCU was insolvent. The NCUA Board placed the FCU into liquidation on May 17, 2003.

XXXXXXXXXXXXXXXXXX name did not appear on the FCU's records as a current member at the time of the liquidation. Because xxx was not a current member, NCUA's Asset Management and Assistance Center (AMAC)<sup>1</sup> did not notify xxx of the liquidation. AMAC first became aware of XXXXXXXXXXXXX claim when xxx wrote to them on November 3, 2003. Enclosed with xx letter was a copy of a cancelled check for \$47,409.15 xx deposited in the FCU in May, 1996. xxx claims xx put \$30,000 of this deposit into a share certificate in the FCU and withdrew no more than \$10,000 from xx original deposit. Throughout various correspondences with AMAC and the Board, xxx claims there should have been a balance of between \$30,000 and \$35,000 in xxx FCU account upon liquidation.

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

AMAC reviewed the credit union records and found an electronic copy of a statement for xxxxxxxxxxxx account. The statement covers the period from January 1, 1997 to June 30, 1999, and shows a zero balance as of May 9, 1997. Upon further research at the liquidated FCU, AMAC obtained copies of withdrawal slips and checks evidencing withdrawals from xxxxxxxxxxxx account. Upon completion of its research, AMAC sent xxxxxxxxxxxx a reconstruction of xxx account, denying xxx claim. xxxxxxxxxxxx responded, requesting AMAC reconsider its denial, enclosing an affidavit indicating that all xxx signatures on the withdrawal forms and checks were forgeries. AMAC then hired a forensic specialist to determine whether xxxxxxxxxxxx endorsements on the checks and withdrawal forms were xxx own or were forged. The forensic specialist concluded that the signatures were those of xxxxxxxxxxxxxxxxxxxxxxx and were not forgeries. Based on the forensic specialist's conclusions and on its reconstruction of account, on May 26, 2005, AMAC issued its reconsideration, again denying xxxxxxxxxxxx claim for share insurance. AMAC noted in its denial that xxxxxxxxxxxx had 60 days from May 26 to file a written appeal to the NCUA Board (appeal deadline July 25, 2005).

The Board did not receive an appeal from xxxxxxxxxxxx by the July 25, 2005 deadline. xxxxxxxxxxxx contacted the Board Secretary in August 2005 concerning xxx appeal rights, stating that xx mailed xxx appeal to the Board within the appropriate timeframe. xxx then sent the Board Secretary a copy of an appeal letter dated June 6, 2005, which the Board Secretary received on September 1, 2005. The original June 6<sup>th</sup> appeal letter has not been located. We accepted xxxxxxxxxxxx appeal based on the June 6<sup>th</sup> date, however the Board's time to render a decision on the appeal is based on September 1<sup>st</sup>, the date the Board Secretary received a copy of the June 6<sup>th</sup> appeal.

On January 3, 2006, xxxxxxxxxxxx submitted book II (of II) of xxx original passbook to the Board. Although submitted in support of xxx claim, the passbook instead supports AMAC's reconstruction of account and its denial of xxx claim. All of the transactions noted in the passbook are found in AMAC's reconstruction of account. The passbook indicates that xxxxxxxxxxxx closed xxx account on May 9, 1997 by making a withdrawal of \$10,391.61. Again, this comports with AMAC's reconstruction.

xxxxxxxxxx has provided no basis for xxx claim. In fact, xxxxxxxxxxxx recent submission of xxx original passbook supports AMAC's reconstruction of account and denial of xxx claim.

## Order

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

The Board upholds the Liquidating Agent's decision and denies xxxxxxxxxxxx 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.

The Board's decision constitutes a final agency determination.

So **ORDERED** this 19<sup>th</sup> day of January, 2006 by the National Credit Union Administration Board.

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Mary Rupp  
Secretary of the Board