

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

Miami Dade Neighborhood
Housing Services, Inc.

Docket BD-03-05

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 determination by the Agent for the Liquidating Agent of Little Haiti-Edison Federal Credit Union denying the Miami Dade Neighborhood Housing Services, Inc. insurance claim in the amount of \$78,535.65.

Background

Little Haiti-Edison Federal Credit Union (hereinafter Little Haiti or the FCU) was chartered by NCUA in 1999 as a low-income community credit union to serve the portion of Dade County/Miami, Florida known as Little Haiti. NCUA placed the FCU into involuntary liquidation due to insolvency on September 30, 2004. NCUA named itself as liquidating agent and appointed agents for the liquidating agent. NCUA also entered into a purchase and assumption agreement with Peoples Credit Union. Peoples Credit Union purchased all assets and assumed all liabilities of the FCU except the Miami Dade Neighborhood Housing Services, Inc. share and share draft account. MDNHS was the only account holder with uninsured shares (funds in excess of \$100,000).

Miami Dade Neighborhood Housing Services, Inc. (MDNHS or claimant) is a local non-profit housing organization that is part of a national network founded by the Neighborhood Reinvestment Corporation. On May 24, 2004, MDNHS officials signed an account card establishing its membership in the FCU as a not-for-profit corporation. On May 27, 2004, MDNHS made its initial deposit for \$49,587.50 into a share account (account 1845761-RE). MDNHS made several deposits and withdrawals over the next four months. On September 21, 2004, MDNHS opened a share draft account (account

1845761-01) with a transfer of \$98,589 from its share account. On September 24, 2004, it deposited \$78,580.30 into its share draft account. NCUA liquidated the FCU on September 30, 2004. Upon liquidation, MDNHS had \$178,162.74 in its share draft account and \$372.91 in its share account for a total of \$178,535.65.

On October 4, 2004, the agent for the liquidating agent notified MDNHS in writing of the FCU's liquidation, enclosing a check for \$100,000 and an uninsured share certificate for \$78,535.65. On November 30, 2004, the attorney for MDNSH submitted a request for reconsideration. The agent for the liquidating agent denied the request for reconsideration on February 17, 2004. MDNSH, through its attorney, submitted an appeal to the NCUA Board Secretary on April 18, 2005.

Insurance Analysis and Payout Priorities

Insurance under Section 745.6

Section 745.6 of the NCUA Rules and Regulations (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 MDNHS membership card indicates its membership as a not-for-profit corporation. Funds in the MDNHS share and share draft accounts are aggregated and insured up to \$100,000 pursuant to §745.6. There are no other applicable provisions in either the Federal Credit Union Act or the NCUA Regulations that provide for additional insurance coverage for the MDNHS share and share draft accounts.

MDNHS, as the only uninsured shareholder, may receive a portion of its uninsured shares at a later date if funds remain in the liquidated estate. The payout priorities in an involuntary liquidation are set forth §709.5(b) of the NCUA Regulations, 12 C.F.R. §709.5(b). Uninsured shareholders (to the extent of their uninsured shares) and the National Credit Union Share Insurance Fund (NCUSIF) (to the extent of its payment of share insurance) share equally in priority as unsecured claimants. Five classes of claimants come before uninsured shareholders and the NCUSIF. (See §709.5(b) of the NCUA Regulations.) Since insured shareholders have eighteen months from the date of liquidation to make a claim for insured funds (see §1787(o) of the FCU Act, 12 U.S.C. 1787(o)), the agent for the liquidating agent may have to make additional share insurance payouts. Hence, the agent for the liquidating agent cannot determine the amount to be distributed to uninsured shareholders before the end of the eighteen-month period. The FCU was liquidated on September 30, 2004; the eighteen-month period expires on March 30, 2006.

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 appeal of Miami Dade Neighborhood Housing Services, Inc.

The Board's decision constitutes a final agency determination. Pursuant to 12 C.F.R. 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 5th day of July 2005 by the National Credit Union Administration Board.

Mary Rupp
Secretary of the Board