

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

**Friends of Hebrew Institute
for the Deaf and Exceptional
Children**

Docket BD-06-05

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 Midwood Federal Credit Union denying the Friends of Hebrew Institute for the Deaf and Exceptional Children (HIDEC's) insurance claim in the amount of \$819,541.85.

Background

Midwood Federal Credit Union (hereinafter Midwood or the FCU) was chartered in 1981 as Chesed FCU, to serve members and employees of the congregation Shaarei Zion of Bobov in Brooklyn, New York. Through the years its charter was expanded to serve several refugee assistance organizations. NCUA placed Midwood into conservatorship and named itself as conservator on November 19, 2004. On November 20, 2004, one day after NCUA placed Midwood into conservatorship, the conservatorship board (NCUA staff) placed a 60-day freeze on share withdrawals in excess of \$250. The freeze remained in effect throughout the conservatorship. NCUA determined Midwood to be insolvent and liquidated the FCU on December 16, 2004, naming itself as the liquidating agent. Staff within NCUA's Asset Management and Assistance Center (AMAC) was named as agent to the liquidating agent.¹ All references to AMAC refer to it in its role as agent for the liquidating agent.

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

HIDEC and its Accounts

HIDEC is a not-for-profit educational corporation chartered by the State of New York. HIDEC maintained five accounts at Midwood. It maintained a regular share account and up to three share certificates under each of its accounts for a total of ten share certificates. The total funds HIDEC held in the FCU on the date of liquidation was \$919,541.85. AMAC determined and HIDEC agreed with the following account balances:

1. Account #1823		Total	\$106,810.58
a. Regular shares	\$	97.75	
b. Certificate #06161998 ²	\$	81,876.95	
c. Certificate #06301998	\$	24,835.88	
2. Account #1860		Total	\$256,784.19
a. Regular shares	\$	10.48	
b. Certificate #11041997	\$	128,007.25	
c. Certificate #12091997	\$	128,766.46	
3. Account #1895		Total	\$128,336.35
a. Regular shares	\$	116.39	
b. Certificate #11041997	\$	128,219.96	
4. Account #1896		Total	\$256,963.69
a. Regular shares	\$	222.05	
b. Certificate #11041997	\$	128,007.25	
c. Certificate #12091997	\$	128,734.39	
5. Account #8050		Total	\$170,647.04
a. Regular shares	\$	110.96	
b. Certificate #01281999	\$	120,785.92	
c. Certificate #06062000	\$	49,744.54	
d. Certificate #12082001	\$	5.62	
		Grand Total	<u>\$919,541.85</u>

On December 10 and 14, 2004, HIDEC attempted to withdraw all of its deposits held in the FCU. HIDEC was informed of the freeze on withdrawals. No funds were withdrawn.

² Share certificate numbers reflect the date that the share certificate was opened. Hence, several share certificates have the same number. The share certificates were maintained under the separate account numbers, so they can be accounted for separately.

AMAC formally notified HIDEDEC of its account balances on June 13, 2005. AMAC informed HIDEDEC that only \$100,000 of the \$919,541.85 balance was insured by the National Credit Union Administration Share Insurance Fund. AMAC had previously issued a check to HIDEDEC for \$100,000 in insured shares. AMAC issued a Certificate for Uninsured Shares to HIDEDEC in the amount of \$819,541.85 on June 13, 2005. HIDEDEC appealed AMAC's determination on June 21, 2005.

Appeal and Insurance Analysis

HIDEDEC argues in its appeal that each certificate of deposit should be individually insured for up to \$100,000 because FCU employees and other individuals associated with the FCU informed HIDEDEC that such insurance would be provided. HIDEDEC's argument is not persuasive.

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.

NCUA's publication "Your Insured Funds" clarifies the coverage by Part 745:

NCUA's specific rules on insurance control how accounts will be insured. Members are advised that no persons may, by representations or interpretations, effect the extent of insurance coverage provided by the Federal Credit Union Act as amended and the rules and regulations for insurance of share accounts.

Your Insured Funds, NCUA publication 8046.

Statements made by credit union employees are not binding on the Liquidating Agent or the NCUA Board and do not obligate either to provide coverage in excess of coverage provided by the NCUA Regulations. All of HIDEDEC's accounts are aggregated and insured up to \$100,000 pursuant to Section 745.6.

Order

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

The Board upholds the Liquidating Agent's decision and denies HIDEC'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 15th day of December 2005 by the National Credit Union Administration Board.

Mary Rupp
Secretary of the Board