

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of  
(b)(6)

*Docket BD-04-06*

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 Jilapuhn Employees Federal Credit Union denying (b)(6) insurance claim in the amount of \$30,000.

**Background**

Jilapuhn Employees Federal Credit Union (the FCU) was located in East Point, Georgia. It was chartered in January 2005 as a community credit union serving individuals and businesses in portions of Fulton County, Georgia. On August 26, 2005, NCUA liquidated the FCU due to its insolvency. NCUA named itself as the liquidating agent and appointed several Asset Management and Assistance Center (AMAC) staff members as agents for the liquidating agent.<sup>1</sup> AMAC is pursuing an investigation of the financial dealing and potential fraud involving FCU staff and the owner/CEO of Jilapuhn, Inc., the FCU's sponsor organization.

On July 13, 2005, (b)(6) wired \$30,000 to the FCU. (b)(6) had no accounts with the FCU and she was not an FCU member. (b)(6) attests that she called the FCU on July 19<sup>th</sup> and spoke with the FCU manager inquiring about her funds. (b)(6) also submitted a copy of a letter to her from the manager dated July 20, 2005, referencing their July 19<sup>th</sup> conversation and enclosing forms to be signed and returned in order for an account to be opened. (b)(6) did not submit copies of these forms to AMAC or the Board. Neither the July 20, 2005 letter nor the forms it referenced were found in the FCU records. (b)(6) attests further that she spoke to the manager by

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<sup>1</sup> References to AMAC throughout this decision refer to AMAC staff acting in their capacity as agents for the liquidating agent.

telephone again on July 29<sup>th</sup> and August 8<sup>th</sup>, checking about her funds. The manager attests that these conversations took place. Neither (b)(6) nor the FCU manager ever state that a share account was opened with (b)(6)'s funds. (b)(6) only addresses her attempt to open an account and statements made by the credit union manager that an account would be opened if certain forms were submitted. There is no evidence either on the FCU records or submitted by (b)(6) establishing membership or an account at the FCU. Neither membership nor an account was established and the FCU was liquidated on August 26, 2005.

On February 24, 2006, AMAC notified (b)(6) that there were no records showing (b)(6) had a share account with the FCU and that her claim was being treated as a general creditor claim. On April 13, 2006, AMAC again notified (b)(6) that her claim was being treated as a general creditor claim and that she would be notified when payment/non-payment would be made. Part 709 of the NCUA Rules and Regulations (12 C.F.R. Part 709) addresses creditor claims, among other things. Section 709.6(d) states in part that a statement of reasons for disallowance of a claim and an explanation of appeal rights will be given if a claim or any portion thereof is disallowed. Since (b)(6)'s entire \$30,000 claim was allowed as a general creditor claim, no appeal rights were given. (b)(6) filed her appeal pursuant to the share insurance regulations (Section 745.202 of the NCUA Regulations). The Board accepted the appeal.

### Share Insurance Analysis

The Federal Credit Union Act and the NCUA Rules and Regulations address and provide for the insurance of member accounts. See Sections 101(5), 101(7), 207(d) and (k) of the FCU Act (12 U.S.C. §§1752(5), (7), 1787(d) and (k)) for definitions of account, insured credit union and payment of insurance. Section 745.2(a) of the NCUA Regulations states in part: "This Part provides for determination by the Board of the amount of members' insured accounts." Sections 745.2 through 745.10 set forth the different types of share accounts qualifying for insurance. Subpart B of Part 745 provides for payment of insured accounts and appeals thereof. Neither the FCU Act nor the NCUA Regulations provide for share insurance for funds intended to establish a share account.

(b)(6) does not present an argument that an insured share account existed. She argues that it was her intent to establish an account. No account was established; therefore she is not entitled to share insurance. Statements made by FCU employees (the telephone conversations between the FCU manager and (b)(6) and the letter from the manager to (b)(6)) are not binding on AMAC or the NCUA Board and do not obligate either to provide insurance coverage where no account has been established.

## 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 (b)(6)'s appeal.

The Board's decision constitutes a final agency determination. Pursuant to 12 U.S.C. 207(d)(3) & (4), 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 20th day of November 2006 by the National Credit Union Administration Board.

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Mary Rupp  
Secretary of the Board