

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

XXXXXXXXXXXX

Docket 01-CRED-002

Creditor Claim

XXXXXXXXXXXXXXXXXXXX Credit Union

Decision and Order on Appeal

Decision

This matter comes before the National Credit Union Administration Board (Board) pursuant to 12 CFR 709.8, as an appeal of the determination by the Liquidating Agent of XXXXXXXXXXXX Credit Union denying XXXXXXXXXXXXXXXX (Claimant) claim in the amount of \$143,010 for unpaid wages from July 14, 1995, through September 14, 1999.

Background

XXXXXXXXXXXXXXXXXXXX Credit Union (the Credit Union), a state chartered, federally insured credit union, was placed into conservatorship by the State of California in October 1999. In November 2000, the State of California liquidated the Credit Union due to insolvency and appointed the National Credit Union Administration Board as Liquidating Agent. Most of the assets and liabilities of the Credit Union were purchased and assumed by Hughes Aircraft Employees FCU. Notice of liquidation was published pursuant to statutory and regulatory requirements. (See Section 207(b)(3) of the FCU Act, 12 U.S.C. 1787(b)(3) and Section 709.4(b) of the NCUA Rules and Regulations, 12 C.F.R. 709.4(b).) Pursuant to the liquidation notice, creditor claims were to be filed with the Liquidating Agent by April 18, 2001. The Claimant initially filed her claim with the California Commissioner of Financial Institutions on December 29, 2000. The claim was forwarded to NCUA's Asset Management and Assistance Center (AMAC). AMAC, in its capacity as Liquidating Agent, denied the claim. On May 6, 2001, the Claimant requested administrative review of the denial pursuant to Section 709.8(c)(1) of the NCUA Regulations. No other claims were filed as a result of this liquidation.

XXXXXXXXXX worked as manager of the Credit Union from 1995 until it was placed in conservatorship in October of 1999. Credit Union examination documentation indicates that XXXXXXXXXXXX was paid a salary for the first three months of 1996, but the Credit Union stopped paying her salary in April 1996 due to lack of funds. The documentation further indicates that the Credit Union intended to pay XXXXXXXXXXXX her accrued salary of \$2300 per month for all of 1996, but only if funds became available. However, on May 7, 1997, XXXXXXXXXXXX signed a consent waiving her right to any retroactive salary. The only documentation XXXXXXXXXXXX provides to support her claim are identical declarations submitted by three former Credit Union board members. The declarants state that the Credit Union board discussed XXXXXXXXXXXX salary and agreed to pay her once the Credit Union started generating income. The Credit Union never generated any income. As noted, it was liquidated due to insolvency in November 2000. The Claimant has presented

no other information or evidence to support her claim.

Order

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

The Board upholds the Liquidating Agent's decision to deny xxxxxxxxxxxxxxxxxx claim in the amount of \$143,010, and denies the Claimant's appeal.

The Board's decision constitutes a final agency determination. Pursuant to 12 CFR 709.8(c)(1)(iv)(B), 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 FCU's principal place of business was located. Such action must be filed within 60 days of the date of this final determination.

So ORDERED this 15th day of November, 2001 by the National Credit Union Administration Board.

Becky Baker
Secretary of the Board