

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

xxxxxxxxxxxxxxxxx Docket 02-INS-003

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 First Hialeah Community Federal Credit Union denying xxxxxxxxxxxx's insurance claim in the amount of \$1372.40.

Background

First Hialeah Community Federal Credit Union (hereinafter First Hialeah or the FCU) was originally chartered in 1970 as Coulter Employees Federal Credit Union in Hialeah, Florida. In 1997, the FCU converted to a low-income community charter serving those who live, work and worship in Hialeah, Florida. The FCU changed its name to First Hialeah Community FCU in 1999 to more accurately reflect its field of membership. The NCUA Board placed the Credit Union into liquidation on May 10, 2002, due to insolvency. The FCU's assets and liabilities were purchased and assumed by Government Employees Credit Union, located in Jacksonville, Florida.

xxxxxxxx Account Analysis

xxxxxxxxxxxxxxxxx had a joint ownership share certificate at the FCU, four share certificates with named beneficiaries, and a small share account with a named beneficiary. The named beneficiary accounts are also known as revocable trust accounts. The share certificates were established under a joint account (one joint share certificate) and a revocable trust account (four revocable trust share certificates). The evidence of xxxxxxxxxxxx's accounts consisted of two passbooks (one for the joint account and one for the revocable trust account) and five account receipts establishing the share certificates. The FCU did not issue paper share certificates.

The owners of the joint share certificate were xxxxxxxxxxxxxxxxxxxx and xxx daughter, xxxx xxxxx. The value of the joint share certificate at liquidation was \$114,694.28. This joint share certificate was fully insured pursuant to §745.8 of the NCUA Rules and Regulations, 12 C.F.R. §745.8. The Liquidating Agent transferred \$144,694.28 to Government Employees Credit Union.

The four account receipts for each of the four revocable trust share certificates stated the purchase price and the beneficiaries for each certificate. The small share account was a revocable trust account with xxxxxxxxxxxx named as the beneficiary. It contained \$25. The information found on the account receipts as well as the value of each revocable trust share certificate at the date of liquidation is noted below.

1. Certificate xxxx – purchase price of \$52,000. xxxxxxxxxxxx (daughter) is listed as the sole beneficiary. The value of the certificate at liquidation was \$56,037.96.
2. Certificate xxxx – purchase price of \$60,000. xxxxxxxxxxxx (daughter) and xxxxxxxxxxxx (son) are listed as the beneficiaries. The value of the certificate at liquidation was \$64,340.64.
3. Certificate xxxx – purchase price of \$15,149.75. The account receipt noted that this certificate was held in trust for xxxxxxxxxxxx and xxxxxxxxxxxx (grandsons). The value of the certificate at liquidation was \$15,733.05.

4. CD xxxx – purchase price of \$25,303.98. xxxxxxxxxxxx (daughter) and xxxxxx xxxxx (son) are listed as the beneficiaries. The value of the certificate at liquidation was \$26,278.24.

Revocable trust account coverage

Section 745.4 of the insurance regulation addresses revocable trust accounts. Section 745.4(a) defines this type of account as one “which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary.” Section 745.4(b) of the regulation provides up to \$100,000 insurance coverage for certain beneficiaries.

(b) If the named beneficiary of a revocable trust account is a spouse, child, grandchild ... of the account owner, the account shall be insured up to \$100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner or beneficiary, regardless of the membership status of the beneficiary.

The named beneficiaries on the \$25 account and on the four share certificates listed above are xxxxxxxxxxxxn’s daughter, xxxxxxxxxxxx; xxx son, xxxxxxxxxxxx; and xxx two grandsons, xxxxxxxx and xxxxxxxxxxxx. The accounts all qualify for the insurance provided by §745.4(b) of the regulations since the beneficiaries are xxxxxxxxxxxxxx’s two children and two grandchildren. The interest of each of the beneficiaries is insured up to \$100,000. The total funds attributed to each beneficiary and the insurance amount for each is as follows: xxxxxxxxxxxx share is \$45,309.44; xxxxxxxx and xxxxxx xxxxxx share is \$7,866.53 each. The Liquidating Agent determined that funds for each of these three qualifying beneficiaries are fully insured because none of them exceeds \$100,000. The Liquidating Agent transferred these amounts to Government Employees Credit Union. xxxxxxxxxxxx share is \$101,372.40. The Liquidating Agent determined that \$1372.40 of this amount is uninsured because it exceeds the \$100,000 maximum provided per qualifying beneficiary. The Liquidating Agent transferred \$100,000 to Government Employees Credit Union and issued xxxxxxxxxxxxxx an uninsured share certificate for \$1372.40.

Appeal

xxxxxxxxxxxx submitted an appeal of the Liquidating Agent’s determination on June 13, 2002. xxxxxxxxxxxx states that when opening share certificate accounts at First Hialeah, staff always assured xxx that xxx funds were fully insured. All of xxxx xxxxxxxxxxxx funds were insured when the share certificates were purchased. However, accumulated dividends, which were rolled into the certificates, increased the balance to exceed the insurance limit by \$1,372.40. Therefore, xxxxxxxxxxxx is only entitled to receive the claim certificate for uninsured shares. [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.]

Order

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

The Board upholds the Liquidating Agent’s decision and denies xxxxxxxxxxxx’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 21st day of November, 2002 by the National Credit Union Administration Board.

Becky Baker
Secretary of the Board