

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

XXXXXXXXXXXXXXXXXXXXXXXXXXXX Docket 03-INS-001

Insurance Claim

Decision and Order on Appeal

Decision

This matter comes before the National Credit Union Administration Board (Board) pursuant to 12 C.F.R. §745.202, as an administrative appeal of the determination by the Agent for the Liquidating Agent of First Hialeah Community Federal Credit Union denying XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX insurance claim in the amount of \$71,954.20.

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 FCU 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.

Account and Insurance Analysis

XXXXXXXXXXXXXXXXXXXXXXXXXXXX are husband and wife. They maintained a jointly owned regular share account (account #XXXXXX) and two jointly owned share certificate accounts (share certificate accounts #XXXX and #XXXX) at the FCU. The XXXXXX had a total of \$530,645.42 in their three FCU accounts. There were no paper share certificates evidencing the certificate accounts because. First Hialeah did not issue paper share certificates.

The XXXXX accounts are summarized in the table and are more fully described in the narrative below.

Account #	Type of Account	Beneficiaries	Balance at Liquidation
XXXXXX	Joint regular share	Daughter XXXXXXXX	\$100
XXXX	Joint certificate	Daughters XXXXXXXX and XXXXXXXX	\$258,691.22
XXXX	Joint certificate	None	\$271,954.20

The jointly owned regular share account (#162618) is evidenced by a signature card that was signed by both XXXXXXXXXXXXXXXXXXXXXXX. XXXXXXXXXXXXXXX, one of the XXXXXX daughters, was named as beneficiary.

Share certificate #XXXX is evidenced by an account receipt and request for a share certificate. This 18-month certificate was issued on March 15, 2001, and was to mature on September 15, 2002. XXXXXXXXXXXXXXX and XXXXXXXXXXXXXXX, two of the XXXXXXX daughters, were listed on the account receipt as beneficiaries.

Share certificate #XXXX is also evidenced by an account receipt and request for a share certificate. This 18-month

certificate was issued on January 16, 2001, and was to mature on July 16, 2002. Neither the account receipt nor the request for a share certificate indicated a beneficiary for this certificate.

Joint revocable trust account coverage

Section 745.4 of NCUA's insurance regulation (12 C.F.R. §745.4) 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.

Section 745.4(f) of the insurance regulation is entitled "Joint revocable trust accounts." It states in part:

Where an account described in paragraph (a) of this section is established by more than one owner and held for the benefit of others, some or all of whom are within the qualifying degree of kinship, the respective interest of each owner held for the benefit of each qualifying beneficiary will be separately insured up to \$100,000.

xxxxxxxxxxxxxxxxxxxx are each entitled to up to \$100,000 in insurance coverage for each qualifying beneficiary for all joint revocable trust accounts. Both regular share account #xxxxxx and share certificate #xxxx qualify as joint revocable trust accounts and are fully insured. Account #xxxxxx contained only \$100 and named xxxxxxxxxxxx as beneficiary. Each joint owner (xxxxxxxxxxxxxxxxxxxx) has \$50 coverage in this account for the benefit of xxxxxxxxxxxx. Share certificate #xxxx contained \$258,691.22 and names xxxxxxxxxxxxxxxx as beneficiaries. The joint owners (xxxxxxxxxxxxxxxxxxxx) have \$129,345.61 coverage each through their daughters xxxxxxxxxxxxxxxx. The account is fully insured for \$258,691.22.

Joint account coverage

Section 745.8 of the insurance regulation (12 C.F.R. §745.8) addresses joint ownership accounts. Section 745.8(a) states in part:

Qualifying joint accounts ... shall be insured separately from accounts individually owned by any of the co-owners. The interest of a co-owner in all qualifying joint accounts shall be added together and the total for that co-owner shall be insured up to \$100,000.

xxxxxxxxxxxxxxxxxxxx are each entitled to up to \$100,000 in insurance coverage for their interest in joint

accounts. Share certificate account #xxxx is a qualifying joint account held by xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. This share certificate account contained \$271,954.20. The Liquidating Agent determined insurance coverage to be \$100,000 each for xxxxxxxxxxxxxxxxxxxxxxxx, leaving \$71,954.20 in uninsured funds.

Appeal

xxxxxxxxxxxxxxxxxxxx submitted an appeal of the liquidating agent’s determination on September 6, 2002. The xxxxxxxx state their belief that all five of their children should have been listed as beneficiaries on their accounts. The documentation evidencing share certificate #xxxx (account receipt and request for share certificate) shows no beneficiaries. The xxxxxxxx have presented no evidence that any beneficiaries existed for share certificate #2692. Section 745.2(c) of the insurance regulations (12 C.F.R. § 745.2(c)) provides that the account records of an insured credit union are conclusive regarding the existence of an account relationship, such as a trust relationship, and “[n]o claim for insurance based on such a relationship will be recognized in the absence of such disclosure.” Therefore, share certificate #2692 is insured as a joint account, with no beneficiaries. This leaves \$71,954.20 in uninsured funds.

Order

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

The Board upholds the Liquidating Agent’s decision and denies the xxxxxxxx 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 20th day of February 2003, by the National Credit Union Administration Board.

Becky Baker
Secretary of the Board