

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

XXXXXXXXXXXXXXXXXXXXXXXXXXXX Docket 03-INS-002

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 (Liquidating Agent) of First Hialeah Community Federal Credit Union denying XXXXXXXXXXXXXXXXXXXXXXX insurance claim in the amount of \$10,842.26. The appeal follows a denial by the Liquidating Agent of a request for reconsideration.

**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. Government Employees Credit Union has since changed its name to First Florida Credit Union.

**XXXXXXXX Account Analysis**

In late April of 2002, XXXXXXXXXXX had two IRA share certificates (IRA certificates #XXXX and #XXXX), one regular share certificate (certificate #XXXX), and a regular share account (account #XXXX) at the FCU. IRA share certificate XXXX matured on April 27, 2002. Once this IRA share certificate matured, XXXXXXXXXXX told FCU staff not to renew it. The FCU then transferred the funds from the matured share certificate to an IRA share account. XXXXXXXXXXX accounts are shown in the table below as of the date of the FCU's liquidation.

<b>Account #</b>	<b>Type of Account</b>	<b>Balance at Liquidation</b>	<b>Date of Maturity</b>
XXXXXX	Regular Share	\$128.68	N/A
XXXX	IRA 2-year certificate	\$0	4/27/02
XXXXXXXX	IRA share (funds from certificate)	\$56,654.75	N/A
XXXX	IRA 5-year certificate	\$54,187.51	4/27/05
XXXX	12-month certificate	\$15,553.77	6/19/02

*Single Ownership Account Coverage*

Section 745.3 of the NCUA Rules and Regulations (12 C.F.R. §745.3) addresses insurance coverage of single

ownership accounts. Section 745.3(a) provides in part: "Funds owned by an individual ... and deposited in one or more accounts in the individual's own name shall be insured up to \$100,000 in the aggregate." On the date of liquidation, xxxxxxxxxxxx had \$128.68 in xxx regular share account (account #xxxxxx) and \$15,153.77 in a 12-month share certificate account (account #xxxx). These funds were insured in full pursuant to Section 745.3.

#### *IRA Account Coverage*

Section 745.9-2 of the NCUA Rules and Regulations addresses insurance coverage of IRA/Keogh accounts. Section 745.9-2(a) provides for up to \$100,000 insurance coverage of all IRA accounts. On the date of liquidation, xxxxxxxxxxxx had \$54,187.51 in xxx 5-year IRA share certificate (account #xxxx) and \$56,654.75 in xxx IRA share account (account #xxxxxx) for a combined total of \$110,842.26. These funds were insured in the aggregate for a combined total of \$100,000, leaving \$10,842.26 in uninsured funds.

#### **Request for Consideration and Appeal**

On June 4, 2002, the Liquidating Agent notified xxxxxxxxxxxx of its determination that \$10,842.26 of her IRA funds was uninsured. On June 22, 2002, xxxxxxxxxxxx submitted a request for reconsideration to the Liquidating Agent. On October 3, 2002, the Liquidating Agent notified xxxxxxxxxxxx that it had not changed its original determination that \$10,842.26 of her IRA funds was uninsured. The Liquidating Agent stated that it was unable to change its determination since it had no evidence funds were changed from an IRA to a regular account. xxxxxxxxxxxx appealed the Liquidating Agent's determination on October 8, 2002. In her appeal, xxxxxxxxxxxx states that she called the FCU and instructed staff not to renew the matured IRA certificate. xxxxxxxxxxxx believes that the \$56,654.74 proceeds from the matured IRA certificate should be insured as a regular share account, rather than as IRA funds.

According to standard practice in all types of financial institutions, funds from a matured IRA certificate remain IRA funds, even if the funds are not rolled over into another IRA certificate. The proceeds of a matured IRA certificate are routinely transferred to a regular IRA account if they are not rolled over into another IRA certificate. If a member wants to change the status of IRA funds to non-IRA funds (e.g. move from a matured IRA certificate to a regular share account), standard practice requires that a form be filled out due to the tax consequences of the change in status. A distribution of IRA funds (even if funds remain in a financial institution, they are deemed distributed if they are no longer IRA funds) has tax consequences to the owner of the funds as well as IRS reporting and withholding requirements for the financial institution. There is no documentation that xxxxxxxxxxxx requested a distribution of IRA funds. xxxxxxxxxxxx statements in xxx request for reconsideration and appeal indicate xxx instruction that the IRA certificate not be renewed, not that the status of the funds change from an IRA account to a regular share account. The FCU followed the standard practice by transferring funds from the matured IRA certificate to an IRA share account.

#### **Order**

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

The Board upholds the Liquidating Agent's decision and denies xxxxxxxxxxxx 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 27th day of March 2003 by the National Credit Union Administration Board.

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Becky Baker

Secretary of the Board