

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

**XXXXXXX** (b)(6)

*Docket BD-10-07*

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 Huntington WV Policemen's Federal Credit Union denying xxxxxx (b)(6) insurance claim in the amount of \$xxxx (b)(6).

**Background**

Huntington WV Policemen's Federal Credit Union (Policemen's FCU) was chartered in 1960 to serve employees of the Huntington, West Virginia police department. It later expanded its field of membership to serve other municipal employees. Policemen's FCU was liquidated on April 15, 2003 due to employee fraud. 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> Huntington Area Postal FCU entered a purchase and assumption agreement with AMAC and Policemen's FCU shareholders' accounts were transferred thereto. It was determined that fraud at Policemen's FCU was tied to specific members' accounts. No problems were ever identified with xxxxxxx(b)(6) account.

XXXXXXXXXXXX(b)(6) claims there should be a balance of \$xxxx in his FCU account based on 41 bi-weekly \$25 deductions made from his paycheck to his FCU account starting March 2, 2000 and ending September 13, 2001. xxxxx(b)(6) supports this claim with copies of his original request for payroll deduction, several of his pay stubs noting the deductions and the results of a deduction inquiry to his employer at the time noting all of the deductions. Xxxx(b)(6)

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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.

submitted no records from either of the Policemen's FCU or Postal FCU to substantiate a continuing balance in his account.

Xxxx(b)(6) first contacted Postal FCU in August 2007. Postal FCU informed XXXX(b)(6) that on the date of liquidation (April 15, 2003) there was \$25.87 in his account. Postal FCU advised XXXX(b)(6) to contact AMAC. On October 15, 2007, XXXX(b)(6) faxed a brief note to AMAC with his supporting documentation. In a telephone conversation with AMAC staff, XXXX(b)(6) stated that he did not receive notice of Policemen's FCU's liquidation in 2003 because he had moved to Ohio in 2001. He stated he received a statement from Postal FCU at his current address in 2004. He does not account for the three-year delay in seeking access to his funds.

AMAC denied XXXX(b)(6) claim on November 7, 2007. The denial was based on both timeliness as well as lack of any evidence to substantiate that there was more than \$25.87 in XXXX(b)(6) account on the date of liquidation.

### **Appeal and Analysis**

The Board received XXXX(b)(6) undated appeal on December 4, 2007. He submitted no further evidence. Upon receipt of XXXX(b)(6) appeal, AMAC searched through all available records and also contacted Policemen's FCU's former bank. Due to the age of this liquidation, records are limited; however, AMAC, together with the bank, retrieved the following records from Policemen's FCU: copies of one check stub (no check available due to seven year record retention policy), three credit union checks issued to and endorsed by XXXX(b)(6), and bank statements for Policemen's FCU account at Huntington Bank. The specifics for the check stub and checks are as follows:

- Check stub dated 11/21/00 for check #31143 issued to XXXX(b)(6) for \$xxxxx;
- Check #31639 dated 5/22/01 issued to and endorsed by XXXX(b)(6) for \$xxxx;
- Check #31880 dated 9/4/01 issued to and endorsed by XXXX(b)(6) for \$xxxxx; and
- Check #31914 dated 9/21/01 issued to and endorsed by XXXX(b)(6) for \$xxxx.

Adding the check amounts along with the \$25.87 transferred at liquidation totals \$1,029.74, an amount very close to the \$1025 claimed by XXXX(b)(6). It appears from these records that XXXX(b)(6) withdrew his payroll deduction funds at several times as they accumulated in his account.

Section 207(o) of the FCU Act, 12 U.S.C. §1787(o) states as follows:

If, after the Board shall have given at least four months' notice to the member by mailing a copy thereof to his last-known address appearing on the records of the closed credit union, any member of the closed credit union shall fail to claim his insured account from the Board within 18 months after the appointment of the liquidating agent for the closed credit union, all rights of the member against the Board with respect to the insured account shall be barred, and all rights of the member against the closed credit union, or the estate to which the Board may have become subrogated, shall thereupon revert the member.

Xxxx(b)(6) does not contest that he was sent notice of the liquidation to his last known address. He states that he did not receive notice because he moved. He also told AMAC staff that he received a statement from Postal FCU in 2004.

According to §207(o) of the FCU Act, Xxxx(b)(6) claim against NCUA as insurer is barred to due to the passage of time; any claim he has would be against the estate of the closed credit union. There are no remaining assets of Policemen's FCU; its charter has been cancelled. Even if Xxxx(b)(6) was within the required time frame for a claim against the Board as insurer, or if the estate of Policemen's FCU had remaining assets, there is no evidence to substantiate Xxxx(b)(6) claim. In fact, the evidence AMAC recovered (in the form of a check stub, checks and bank statements) indicates that Xxxx(b)(6) withdrew the funds he now claims.

### **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 the appeal of Xxxx(b)(6).

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 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 17th day of April 2008 by the National Credit Union Administration Board.

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Mary Rupp  
Secretary of the Board