

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

XXXXXXXXXXXXXXXXXXXXX
XXX
XXXXXXXXXXXXXXXXXXXXX

Docket 95 005

Insurance Claim
Parkway Medical Center Federal Credit Union

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 appeal of the determination upon a request for reconsideration by the Liquidating Agent of Parkway Medical Center Federal Credit Union denying the xxxxxxxx insurance claim in the amount of xxxxxxxxxx

Background

Parkway Medical Center Federal Credit Union, located in Lithia Springs, Georgia, was a multiple group credit union, serving primarily health related employee groups. It was placed into involuntary liquidation due to insolvency, effective April 3, 1995. The liquidation was due to alleged fraud involving credit union officials.

xx, husband and wife, had two accounts at the credit union. Account xxxxx consisted of a xxxxxxxx share certificate issued to xxxxxx and/or xxxxxxxxxxxxxxxxxxx. A box checked on the share certificate indicates joint ownership with full rights of survivorship. The account card for account xxxxx was signed by xxxxxxxxxxxxxxxxxxx on the front; the back of the card was signed by xxxxxxxxxxx and xxxxxxxxxxx (daughter of xxxxxxxxxxxxxxxxxxx) as joint owners. There is some question as to the authenticity of the signatures on the card. xxxxxxxxxxx has stated, after the liquidation of the credit union, that his intent was for this account to be joint with his daughter xxxxx only.

Account xxxxx consisted of a xxxxxxxx share certificate and xxxxxxxxxxx in the share account. The share certificate was issued to xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx. A box checked on the share certificate indicates joint ownership with full rights of survivorship. The account card for account xxxxx was signed by xxxxxxxxxxxxxxxxxxx on the front; the back of the card contains the hand printed names of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxx as joint owners. There is some question as to the authenticity of the signatures on the card. xxxxxxxxxxx has stated, after the liquidation of the credit union, that her intent was for this account to be her individual account, xxxxxxxxxxx was to be the beneficiary, not the joint owner.

The ALMC treated both accounts as non qualifying joint accounts for xxxxxxxxxxx xxxxxxxxxxxxxxxxxxx. The ALMC attributed one half of each account to each of the two account holders. They paid xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx each xxxxxxx and

issued xxxxxxxxxxxxxxxx an uninsured share certificate for xxxxxxxxxxxx and xxxxxxxxxxxxxxxx an uninsured share certificate for xxxxxxxxxxxx.

ANALYSIS

Sections 745.3 and 745.8 of the NCUA Rules and Regulations are the provisions applicable to this appeal. The relevant provisions of these regulations follow:

745.3 Single Ownership Accounts.

(a) Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to \$100,000 in the aggregate. (1) *Individual accounts.* 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.

745.8 Joint Accounts.

(a) Separate insurance coverage. Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners. (b) Qualifying joint accounts. Joint accounts are insured separately from individual accounts up to a maximum of \$100,000 provided that each of the co-owners has personally signed an account signature card and has a right of withdrawal on the same basis as the other co-owners. (c) Failure to qualify. An account owned jointly which does not qualify as a joint account for purposes

of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to \$100,000 in the aggregate....

The ALMC determined that xxxxxxxxxxxxxxxxxxxxxxxxxxxx were joint owners of the two accounts, as reflected by the share certificates. Since the account signature cards were not properly signed by each of the two co-owners, the accounts were not "qualifying joint accounts" for purposes of insurance coverage (Section 745.8(b)). Pursuant to Section 745.8(c), the accounts were treated as individually owned accounts and insured up to \$100,000 in the aggregate. These were the only two accounts that xxxxxx xxxxxxxxxxxxxxxxxxxx had in the credit union, hence the accounts were each only insured for xxxxxxxx.

The NCUA Board notes that had the xxxxxx set up their accounts as they later stated was their intent (account xxxxx as a joint account for xxxxxxxxxxxxxxxxxxxx and account xxxxx as an individual account for xxxxxxxxxxxxxxxx), they would have received the same amount in insurance coverage. Account xxxxx, as a joint account of xxxxxx xxxxxxxxxxxxxxxxxxxx, would have been insured for \$100,000 pursuant to Section 745.8(b) of the Regulations. Account xxxxx, as an individual account for xxxxxx xxxxxxxx, would have been insured for \$100,000 pursuant to Section 745.3(a)(1) of the Regulations.

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

The Board upholds the Liquidating Agent's decision upon reconsideration to deny xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx claim in the amount of xxxxxxxxxx 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 14th day of December, 1995 by the National Credit Union Administration Board.

Becky Baker
Secretary of the Board.