

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

XXXXXXXXXXXXXX

*Docket 96-011*

XXX

XXXXXXXXXXXXXX

Insurance Claim

Bartow Employees 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 administrative appeal of the determination by the Liquidating Agent of Bartow Employees Federal Credit Union denying the insurance claim of xxxxxxxxxxxxxxxxxxxxxxxxx (hereinafter referred to jointly as the "Appellants") in the amount of xxxxxxxxxx. The May 1, 1996 appeal follows a reconsideration by the Liquidating Agent.

Claim

The Appellants, husband and wife, filed this appeal of an uninsured share certificate in the amount of xxxxxxxxxx. The appeal involves the following:

Appellants claim that xxxxxxxx was or should have been transferred from account xxxx (individual account for xxxxxxxxxxxxxxxx) to account xxxx (individual account for xxxxxl xxxxxx) in early 1995. The credit union records do not reflect the transfer. The Asset Liquidation Management Center (ALMC)<sup>[1]</sup> verified a balance of xxxxxxxxxx for account xxxx and paid xxxxxxxxxxxxxxxxxxxxxxxxx in insurance proceeds. xxxxxxxxxx was issued an uninsured share certificate in the amount of xxxxxxxxxx. The ALMC verified a balance of xxxxxxxxxx for account xxxx and paid xxxxxxxxxxxxxxxx this amount in full.

Summary of Facts and Analysis

It is the Appellants contention that they originally requested credit union personnel to make a xxxxxxxx transfer from account xxxx to account xxxx in late 1994. Upon review of their 1099 statements from the credit union for 1994, Appellants realized the transfer had not been made. The Appellants again requested the credit union manager make the transfer and, according to the Appellants' affidavits, the manager agreed to do so.

In this particular case, credit union transactions were frequently conducted by telephone without written confirmation; the credit union did not routinely send out periodic statements. The Appellants were thus unaware that the manager had again failed to honor their request until the liquidation that gave rise to their claim.

NCUA Regulations state that single ownership accounts are insured up to \$100,000 for each individual.

(See 12 CFR 745.3.) Had the xxxxxx transfer been made as requested by Appellants, all of the funds in accounts xxxx and xxxx would be insured.

In light of this credit union's customary practices, including the known activities of the manager, and based on the information provided by the Appellants, the Board is satisfied that the Appellants have provided sufficient credible evidence to support their claim. The Board believes that the credit union manager failed to carry out Appellants' request and that the balances in the Appellants' accounts should be adjusted to reflect the xxxxxx transfer.

#### Order

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

The Board reverses the Liquidating Agent's decision to deny xxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxx claim in the amount of xxxxxxxxxxxxxx and grants the xxxxxxxx appeal. The ALMC shall issue a check to the xxxxxxxx in the amount of xxxxxxxxxxxxxx. The Board's decision constitutes a final agency determination.

So ORDERED this 16th day of October, 1996 by the National Credit Union Administration Board.

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Becky Baker

Secretary of the Board

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<sup>[1]</sup> The ALMC is the NCUA component responsible for, *inter alia*, the liquidation of federally-insured credit unions. The Liquidating Agent is an NCUA employee responsible for conducting ALMC liquidation functions. The terms "ALMC" and "Liquidating Agent" may be used interchangeably herein.