

UNITED STATES OF AMERICA

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of

XXXXXXXXXXXXXXXXXXXX

Docket No. 96-012

Insurance Claim

Berkshire Credit Union

Decision and Order

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 Liquidating Agent of Berkshire Credit Union denying the insurance claim of xxxxxxxxx xxxxx, the Appellant.

Claim

The Appellant filed this appeal for funds claimed to be held in his personal account xxxx in the amount of xxxxxxxxx. The appeal involves the following:

The credit union maintained a ledger sheet noting a balance of xxxxxxxxx in account xxxxxxxxxxxxxxxxx was able to substantiate all but xxxxxxxxx of the xxxxxxxxx balance with income tax forms from 1970 through 1994. Appellant does not have tax records for four non consecutive years during this period nor are there records for the amount on deposit prior to 1970. The ALMC' did not pay xxxxxxxxx his estimated dividends and funds on deposit for these periods. Lastly, the ALMC did not accept xxx xxxxxxxxx checkbook stub entry to substantiate a deposit of xxxxxx made in 1979.

' The Asset Management Liquidation Center (ALMC) was the NCUA component responsible for, *inter alia*, the liquidation of federally insured credit unions at the time this appeal was filed. On October 30, 1996, the NCUA Board changed ALMC's name to Asset Management and Assistance Center (AMAC). The liquidating Agent is an NCUA employee responsible for conducting AMAC liquidation functions. The terms "ALMC", "AMAC" and "Liquidating Agent" may be used interchangeably herein.

General Background

The Berkshire Credit Union, a state chartered credit union located in Pittsfield, Massachusetts, was chartered by the Massachusetts Department of Banking on May 11, 1927. Its community charter included residents of Berkshire County, limited to not over 200 persons. The credit union received federal insurance in June 1992. The credit union was determined to be insolvent and placed into liquidation by the State of Massachusetts on March 22, 1995. The National Credit Union Administration (NCUA) was appointed Liquidating Agent.

Summary of Facts and Analysis

The Appellant provided no passbook for account xxxx. He did provide a passbook for another credit union account showing a February 1995 transfer of xxxxxxxxx to account xxxx. The only credit union record for account xxxx consisted of a ledger entry dated December 1994 noting a balance of xxxxxxxxx. ALMC noted that ledger entries made by the

credit union were not reliable. ALMC paid the Appellant xxxxxxx based on the passbook entry. ALMC did not accept the ledger as adequate evidence to substantiate further payment to xxxxxxxxxx. Rather, ALMC required that the amount reflected in the ledger be separately documented by the Appellant. xxxxxxxxxx was able to document all but xxxxxxx of the xxxxxxx with tax returns and 1099 forms. xxxxxxxxxx submitted a checkbook stub to substantiate a xxxxxx deposit he made to account xxxx in 1979. ALMC did not accept the checkbook stub as sufficient proof to substantiate the xxxxxx deposit. xxxxxxxxxx estimated dividends paid in years for which he had no tax records as well as the amount in the account prior to 1970. ALMC believes xxxxxxxxxx estimates are reasonable but did not pay them because their requirement for substantiation was not met.

Based on the information provided by the Appellant combined with the credit union's December 1994 ledger entry, the Board is satisfied that there is sufficient credible evidence to support Appellant's claim.

Order

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

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

So ORDERED this 20th day of November, 1996 by the National Credit Union Administration Board.

Becky Baker

Secretary of the Board