

UNITED STATES OF AMERICA

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Docket 98-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 of Espirito Santo Federal Credit Union denying the xxxxxxxx insurance claim in the amount of xxxxx. The March 9, 1998 appeal follows a denial by the Agent for the Liquidating Agent of a request upon reconsideration.

Background

xxxxxxxxxxxxxxxxxxxxxxxxxxxx, husband and wife, had several accounts at the credit union. Some of the accounts were paid in full leaving three term certificate accounts, for a total of xxxxx, in dispute. The xxxxxxxx stated that they gave the assistant manager of the credit union xxxxxxxxxxxxxxxxxxxxxxxx in cash, on different dates, to open the three accounts. The xxxxxxxx received completed term share certificates for the first two accounts. The AMAC paid the first two accounts for a total of xxxxx.

The xxxxxxxx remaining claim and the subject of this appeal is in the amount of xxxxx. The xxxxxxxx claim they gave the assistant manager xxxxx in cash to open an account approximately one week before the credit union was liquidated. The xxxxxxxx have only a blank passbook to evidence this account. xxxxxxxxxxxxxxxx submitted a signed statement to AMAC that she could not get the assistant manager to fill in the passbook. There is no deposit slip or other voucher to substantiate the claim. The xxxxxxxx claim in their appeal that they should be paid the xxxxx based on the assistant manager assuring them that credit union records had been updated to reflect the xxxxx deposit and that they had placed their trust in the assistant manager.

Since the time the appeal was filed, the assistant manager of the credit union has entered into a plea agreement with the Assistant United States Attorney. She admitted to twenty counts of misapplication of credit union funds. The xxxxxxxx were named in one of the counts as members from whom the assistant manager took funds and misapplied them.

The Board believes that the evidence, including the plea agreement, establishes a pattern of behavior on the part of the assistant manager where she took cash from the xxxxxxxx, told them it would be deposited in their name, and then misapplied the funds. The evidence is sufficient to warrant payment of the xxxxx claim.

Order

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

The Board reverses the Agent for the Liquidating Agent's decision to deny xxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxx claim in the amount of xxxxx and grants the xxxxxxxx appeal. The Board directs the Agent for the

Liquidating Agent to pay the xxxxxxxxx their claim in the amount of xxxxx.

So ORDERED this 30th day of July, 1998, by the National Credit Union Administration Board.

Becky Baker

Secretary of the Board