

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

**XXXX**

Docket No. BD 10 -13

Share Insurance Appeal  
Taupa Lithuanian Credit Union

**Decision and Order on Appeal**

**Decision**

This matter comes before the National Credit Union Administration Board (Board) pursuant to §745.202 of NCUA Regulations (12 C.F.R. §745.202), as an appeal of the determination made by the Agent for the Liquidating Agent for Taupa Lithuanian Credit Union (Taupa). The determination involves the amount of share insurance available to the share and share draft accounts maintained under member account number XXXX at Taupa by XXXX (Claimant).

**Background and Initial Determination**

The Director of the Ohio Department of Financial Institutions closed Taupa on July 12, 2013 and appointed the Board as Liquidating Agent. Taupa, located in suburban Cleveland and having assets of approximately \$24 million, had been victimized by fraud perpetrated by its former manager, who embezzled a substantial sum of money over several years. In connection with this fraud, the former manager has been convicted of federal criminal charges and awaits sentencing. There was no conservatorship in this case; instead, Taupa was placed immediately into liquidation. The Agent for the Liquidating Agent arranged a sale of most of the Taupa loans to another Cleveland area credit union, but its share accounts were simply paid out to the members.

Before his death on December 19, 2012, XXXX had been a member of Taupa, where he maintained a share and a share draft account. After his death, the executor of his estate, Mr. XXXX, established share and share draft accounts under account number XXX (Accounts) for the purpose of administering the estate of XXXX. Subsequent to XXXX's death, Mr. XXXX made several deposits into the Accounts, reflecting his role and obligation as executor to obtain control over the assets of the estate. As of the date of liquidation, the Accounts had an aggregate balance of \$511,980.82.

Following the appointment of the Liquidating Agent, representatives of NCUA's Asset Management and Assistance Center, acting as Agents for the Liquidating Agent, conducted a

review and evaluation of the Accounts at Taupa to determine the scope and extent of share insurance coverage. The Agent for the Liquidating Agent determined that the amount of insurance available to the Accounts was \$250,000. This left \$261,890.82 uninsured, for which the executor was issued a liquidation certificate. Through his attorney, the executor has challenged this determination and appealed the Agent for the Liquidating Agent's final determination to the Board.

## Appeal

In his appeal, counsel for the executor provides a thorough discussion of probate proceedings in Ohio and the role of the executor of a decedent's estate. As noted by counsel, the executor is charged with the fiduciary obligation of collecting the assets of the estate, paying all legitimate debts owed by the estate, and distributing the net estate to the beneficiaries in accordance with the directions specified by the decedent in his last will and testament. Counsel goes on to request that the Board recognize and consider the account as the equivalent of a trust account, maintained by the executor for the benefit of the beneficiaries named in XXXX's will. Counsel concludes by requesting that each such beneficiary be provided with up to \$250,000 in insurance coverage for his or her interest, so that "each beneficiary will be treated equitably and fairly under Ohio law."

NCUA's share insurance rules do recognize certain circumstances in which parties having a beneficial interest in an account receive the benefit of pass-through insurance. Most common among these are accounts in which an account owner has created a revocable trust in favor of a named beneficiary or beneficiaries who are to receive the remaining balance in the account, if any, following the account owner's death. *See* 12 C.F.R. §745.4. Certain irrevocable trust interests may also receive the benefit of pass-through insurance. *See* 12 C.F.R. §745.9-1. Retirement accounts, including both individual retirement arrangements and employee benefit plans, also receive the benefit of pass-through coverage for beneficial interests, separate from the insurance limits pertaining to funds owned individually by the beneficiaries. *See* 12 C.F.R. §745.9-2.

An account held by an executor on behalf of a decedent's estate is, however, not one of the circumstances in which pass-through insurance coverage is available. The text of §745.5 is quite specific and provides expressly that funds in one or more such an accounts are insured in the aggregate to a maximum of \$250,000. There is no doubt that the accounts in question here are such accounts. A straightforward application of the rule to these circumstances yields the conclusion that funds in the Accounts are entitled to receive not more than \$250,000 in share insurance coverage in the aggregate.<sup>1</sup> The Board notes, in this respect, that Ohio law, to which counsel for the executor refers, contains no provisions governing or relating to Federal share insurance and so is not relevant to this determination.

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<sup>1</sup> The Agent for the Liquidating Agent reached the correct conclusion regarding the amount of coverage available; however, as discussed herein, the best support for that position derives from the express language in 12 C.F.R. §745.5, and not from the absence of references to beneficiaries in Taupa's account records.

## **Conclusion**

The Accounts involved in this case were accounts maintained by an executor on behalf of a decedent's estate. In accordance with applicable NCUA regulations, funds held in accounts maintained by an administrator or executor of a decedent's estate are insured to a maximum of \$250,000 in the aggregate, separately from funds held in other individual accounts of the beneficiaries of the estate or of the administrator or executor. 12 C.F.R. §745.5.

## **Order**

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

The appeal by the Estate of XXXX, as advanced by counsel for the executor for the estate, seeking federal share insurance coverage in excess of \$250,000 for the Accounts maintained under member account number XXX at Taupa Lithuanian Credit Union, is denied.

The Board's decision constitutes a final agency determination. Pursuant to 12 C.F.R. 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 Taupa's principal place of business was located. Such action must be filed within 60 days of the date of this final determination.

So **Ordered** this 24<sup>th</sup> day of March, 2014, by the National Credit Union Administration Board.

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Gerard Poliquin  
Secretary of the Board