



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 17, 1991

John S. Ruffin,
Region V Director
John M. Hollis,
Director, Liquidations
National Credit Union Administration
4807 Spicewood Springs Road
Suite 5200
Austin, Texas 78759

**Re: Request for Administrative Review - Sisters of
the Presentation of the Blessed Virgin Mary of
Aberdeen, South Dakota**

Gentlemen:

The NCUA Board considered the above-referenced matter at its January 17, 1991 meeting. Please be advised that the Board has denied the Presentation Sisters' appeal, and upheld the decision of the Agent for the Liquidating Agent.

Enclosed is a copy of the Board's decision.

Sincerely,

Becky Baker
Secretary to the Board
National Credit Union
Administration Board

GC/MRS:mg
SSIC 1044
90-0510

Enclosure

FOIA

Vol. IV, A, S

BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION BOARD

In the Matter of)
Sisters of the Presentation)
of the Blessed Virgin Mary of)
Aberdeen, South Dakota) Docket No. 089001GC
) Final Decision and Order

Statement of the Case

By letter dated March 8, 1990 (the "Notice of Denial"), the National Credit Union Administration Board (the "Board"), as Liquidating Agent for the Franklin Community Federal Credit Union ("Franklin"), through its agent, John Hollis (the "Agent"), advised the Sisters of the Presentation of the Blessed Virgin Mary of Aberdeen, South Dakota (the "Sisters") of the denial of their claim for payment of uninsured shares in the amount of \$2,114,596.44, plus interest and costs thereon (the "claim"). The Notice of Denial advised the Sis-

ters of their right to file suit or request administrative review of their claim pursuant to Section 207(b)(6) of the Federal Credit Union Act (the "Act") (12 U.S.C. §1787(b)(6)), within sixty days. The Sisters filed a Request for Administrative Review (the "Request") with the Board on May 4, 1990, and asked to be allowed to appear before the Board in support of their claim. Under Section 207(b)(7) of the Act (12 U.S.C. §1787(b)(7)), the Board has discretion to grant such a request, but is not required to do so. The Board granted the Sisters' request for administrative review, to include a hearing.

The Request for Administrative Review did not specify whether the Sisters wished to proceed under Section 207(b)(7)(A), which provides for administrative hearings, or Section 207(b)(7)(B), which provides for alternative dispute resolution procedures. Since the Request for Administrative Review requested an opportunity to appear before the Board, the Board assumed that the Sisters intended to request an administrative hearing pursuant to Section 207(b)(7)(A), and granted the same.

The Sisters, through their attorneys, submitted written arguments and appeared at the Board hearing on August 27, 1990,

to argue their claim to the Board. John Ianno, an attorney with the National Credit Union Administration's ("NCUA") Office of General Counsel, also submitted a brief and presented oral argument on behalf of the Agent at the hearing.

After reviewing the written submissions and hearing the arguments of both parties, the Board has determined that the decision of the Agent should be upheld. Accordingly, the Board hereby denies the claim of the Sisters for creditor status and priority payment on the uninsured portion of their shares, plus interest and costs.

Findings of Fact

Franklin Community Federal Credit Union was a designated low-income federal credit union located in Omaha, Nebraska. The Board placed Franklin into involuntary liquidation on November 10, 1988. At that time, the Sisters held eleven (11) share certificates issued by Franklin, totalling \$2,456,479.46. All of the certificates were held under the name "Presentation Sisters Fund B." The Sisters, although not within Franklin's field of membership, had been solicited to make deposits in Franklin, which, as a low-income credit

union, was entitled to accept nonmember deposits (12 U.S.C. 1757(6)). They had purchased the share certificates over a period of several years, the last purchase having been made in 1988. Each time that they purchased a share certificate, the Sisters received a letter signed by a representative of Franklin, indicating that the funds had been received, that a certificate was issued, and that the certificate was collateralized by U. S. Government securities. On three occasions, the letters received by the Sisters identified a fund in an Omaha bank as the source of security for their investment; however, the account was identified as in the name of the credit union, rather than the Sisters, no identification of the specific government securities was provided, and there was no indication that the Sisters were secured separately from the credit union or its other depositors, or that their interest in the securities was segregated. The Sisters received originals or copies of the share certificates, but did not receive copies of the government securities allegedly collateralizing the certificates, or any documents identifying those securities or confirming their existence, other than the letters from Franklin.

Upon the Board's placing Franklin into liquidation, the Agent issued a notice to creditors to present their claims, as re-

quired by Section 207(a)(2) of the Act (as then in effect) (12 U.S.C. §1787(a)(2)(1988)). That notice was published November 25, 26 and 27, 1988. The notice stated, in part:

All creditors having any claim or demand against said credit union [Franklin] are required to present their claims and make legal proof thereof to the National Credit Union Administration. Under the provisions of said Act [the Federal Credit Union Act], all claims not filed within four months from the date this advertisement first appeared shall be barred, and claims rejected or disallowed by the Liquidating Agent shall be likewise barred. All claims of creditors of said credit union should be submitted under oath or affirmation duly administered by a notary public or other person legally empowered to administer the same.

(Response of the Agent for the Liquidating Agent ("NCUA Brief"), Exhibit 2)

The Sisters did not submit a creditor claim within the time period specified by the Agent's notice.

On December 8, 1988, the Sisters submitted a claim for insurance on the eleven share certificates. An amended claim was filed on December 22, 1988. Neither of those claims gave any indication that the Sisters considered themselves a "creditor" of Franklin; each requested only payment of insurance. After several months of correspondence among the Sisters, their attorneys, and representatives of the NCUA, the Agent determined that the Sisters were entitled to \$341,883.02 in insurance on the share certificates. He advised the Sisters of his determination by letter dated March 2, 1989, and provided them with Insurance Certificate No. 19154, representing a \$2,114,596.44 "claim of a member to the extent of uninsured shares" (the "Insurance Certificate") (NCUA brief, Exhibit 3). The Agent's letter advised the Sisters of their right to appeal the determination of insurability; the Sisters did not appeal. The Sisters did accept the \$341,883.02 insurance payment.

The Sisters first attempted to make their creditor claim by letter dated August 29, 1989. While acknowledging the Insurance Certificate, the Sisters stated that they were either a

secured creditor or a general creditor and, in either case, entitled to priority over members to the extent of uninsured shares, and the National Credit Union Share Insurance Fund ("NCUSIF"), in distribution of Franklin's assets.

Several months of correspondence and telephone conversations ensued. On November 29, 1989, the Agent wrote to the Sisters, advising them that their claim for creditor status was denied, and that their claim would continue to be treated as one of members to the extent of uninsured shares. He also informed them of their right to appeal his determination to the Board. After months of additional correspondence, conversations and meetings, the Agent issued the March 8, 1990, Notice of Denial, rejecting the Sisters' creditor claim. This matter then came before the Board for review of that denial.

Decision

The Sisters offer three arguments in support of their claim. First, they state that they are a secured creditor of Franklin, and therefore entitled to first priority in the liquidation. Alternatively, they argue that they are an unsecured, or general, creditor, and have priority over members

to the extent of uninsured shares, the NCUSIF, and allegedly improper expenditures made by the Agent. Third, they contend that the theory of constructive trust and/or other equitable principles entitle them to recover the full amount of their shares. The NCUA refutes each of the Sisters' arguments, and also argues that the Sisters' claim is time barred. Each of these theories is discussed below.

1. Secured Creditor Status

The Sisters base their claim of secured creditor status on two arguments: (1) that the Sisters were not a member of Franklin; and (2) that the Sisters were given letters by Franklin representatives indicating that their share certificates were collateralized by government securities. Neither of these arguments warrants a finding that the Sisters were a secured creditor of Franklin.

The parties agree that the Sisters were not within Franklin's field of membership, and were not a member of Franklin. Franklin was authorized to accept deposits from the Sisters only by virtue of its status as a low-income credit union (12 U.S.C. §1757(6)). The Sisters argue that, because they

were not a member of Franklin, their deposits must be treated differently from those of members, and that they are therefore creditors per se. However, this argument ignores the express language of the Act.

It is true, as the Sisters point out, that the term "member" is not defined in the Act. The Sisters claim that they were not a member for any purpose under the Act (with the possible exception of insurance benefits), based on the fact that they were not within the field of membership and did not receive certain incidences of membership, such as the right to vote and the right to obtain loans from the credit union. However, the issue is not whether nonmembers are entitled to the incidences of membership, but whether their accounts are classified separately from those of members and thereby accorded different treatment. Under this analysis, the Sisters' argument fails.

The only provision actually defining the term "member" appears in Part 745 of NCUA's Rules and Regulations (the "Regulations") (12 C.F.R. Part 745), and supports a finding that members and nonmembers are to be treated identically. Section 745.1(b) of the Regulations states, in part: "The terms 'member' or 'members' . . . mean those persons enumer-

ated in the credit union's field of membership . . . including those nonmembers permitted under the Act to maintain accounts in an insured credit union." (12 C.F.R. §745.1(b).)

The term "member account" is defined by the Act, and appears in several significant provisions. Section 101(5) of the Act (12 U.S.C. §1752(5)) provides:

the terms "member accounts" and "account" mean a share, share certificate or share draft account of a member of a credit union . . . and, in the case of a credit union serving predominantly low-income members (as defined by the Board), such terms (when referring to the account of a nonmember served by such credit union) mean a share, share certificate, or share draft account of such nonmember which is of a type approved by the Board and evidences money or its equivalent received or held by such credit union in the usual course of business and for which it has given or is obligated to

give credit to the account of such
nonmember

Clearly, the Act makes no distinction between members and nonmembers for purposes of classification and treatment of accounts.

Moreover, members and nonmembers are treated identically for purposes of two of the most significant benefits available to shareholders in federal credit unions: payment of dividends, and federal share insurance. Section 117 of the Act (12 U.S.C. §1763) authorizes payment of dividends on all accounts, without regard to member/nonmember status. Section 201(a) (12 U.S.C. §1781(a)) states that the Board shall insure the member accounts of all federal credit unions; insurance is provided to all holders of member accounts. Section 207(c)(1) defines "insured account" as "the total amount of the account in the member's name . . . less any part thereof which is in excess of \$100,000." (12 U.S.C. §1787(c)(1).) Since Section 101(5) of the Act (12 U.S.C. 1752(5)) includes nonmember share certificate accounts in low-income credit unions in its definition of member account, such insured nonmember account is insured as a "member" of a credit union, at least for purposes of classification and

treatment of his account. The Regulations governing payment of insurance also classify members and nonmembers together. (See, 12 C.F.R. §745.1(a).)

The Sisters nonetheless emphasize the fact that they were not within Franklin's field of membership. They reason that because they were outside of the field, their deposits are to be treated as debt of, rather than as equity in, Franklin. The Sisters analogize their position to that of a depositor in an insolvent bank, and argue that the Act's references to "equity" are irrelevant. However, that interpretation is contrary to the Act. Section 107(6) of the Act (12 U.S.C. §1757(6)) authorizes a federal credit union "to receive from its members . . . and from nonmembers in the case of credit unions serving predominantly low-income members (as defined by the Board) payments, representing equity, on - . . . (B) share certificates which may be issued at varying dividend rates and maturities." (Emphasis supplied.) (See, also, Section 745.0 of the Regulations, 12 C.F.R. §745.0.) Section 107(6), the only statutory provision authorizing the Sisters' shares in Franklin, unquestionably treats those shares as equity. While bank depositors, according to the Sisters, "do not share the same risk of loss that stockholders and equity owners experience" (Sisters' brief, p. 10), credit union de-

positors, including nonmember accountholders such as the Sisters, clearly are stockholders/equity owners. The Sisters also point out that bank depositors "are not entitled to a distribution of the share of the profits of the bank" (Sisters' brief, p. 10). Notably, nonmember depositors (including the Sisters) in an FCU do share in the FCU's profits through the dividends they receive under Section 117 of the Act (12 U.S.C. §1763). An FCU differs significantly from a bank in these two important respects, and the Sisters' argument is not persuasive. The Sisters were an equity owner, as opposed to a creditor.

The Sisters both submitted a claim for and accepted the federal share insurance available for "member accounts" under the Act. Nonetheless, they insist that they were not a member of Franklin and are therefore entitled to creditor status which would give them priority over other depositors in terms of recovering the uninsured portion of their shares. The Sisters see no inconsistency in this position. Yet, the Act clearly provides for insurance of only "member accounts" and, under Section 207(c)(1), the Agent was entitled to pay insurance only on the "insured accounts" in Franklin, that is, "the total amount of the account in the member's name . . . less any part thereof which is in excess of \$100,000

(12 U.S.C. §1787(c)(1) (1988)). By applying for and accepting the insurance available for member accounts, the Sisters impliedly agreed that their account was a member account and that they were to be treated as a member of Franklin for purposes of classification and treatment of their account.

The Sisters argue that they were to be treated as a member for purposes of insurance, but as a creditor of Franklin with regard to the uninsured amount of their account. Nothing in the Act or the Regulations supports this argument. As the NCUA points out (NCUA brief, p. 6), the statute makes no distinction between the accounts of individuals who are within the field of membership and those who are outside of the field but meet the definition of member account. If the Sisters were construed as a creditor to the extent of their uninsured shares, all individuals, whether "members" or not, with accounts in Franklin would similarly be creditors as to amounts in excess of their insurance. Such a situation is clearly contrary to the statutory and regulatory scheme. Section 745.201(b) of the Regulations, which formalized the NCUA's past practice, contains the only provision for treatment of accounts over \$100,000. That Section states, "In the event the Liquidating Agent determines that . . . a portion

of an accountholder's account is uninsured . . . [he] shall provide the accountholder with a certificate of claim in liquidation in the amount of the uninsured account. . . ."

12 C.F.R. §745.201(b). The Regulation neither states nor suggests that "members" and others with accounts shall receive differing treatment of their uninsured accounts, or that holders of claim certificates are creditors. In fact, the Insurance Certificate, issued pursuant to the Regulation, states that the claim represented thereby, if not disallowed, is entitled to a pro rata share of the liquidating distributions paid by the Agent. The Sisters received exactly what they, as an accountholder, were entitled to: a certificate of claim for the uninsured amount of their account (that is, the Insurance Certificate). That certificate did not change their status. They, like all holders of uninsured accounts, were and are "members to the extent of uninsured shares" for purposes of distribution under the priority schedule. Any other interpretation would be contrary to the Act and Regulations, and would result in a grossly inequitable distribution of the liquidation proceeds, at the expense of other accountholders (both members and nonmembers) and the NCUSIF.

The Sisters argue that they believed themselves to be a secured creditor of Franklin, and that they therefore should be accorded that status pursuant to equitable principles. This argument also fails. First, although it is undisputed that the Sisters were fraudulently induced to purchase share certificates in Franklin, that fact does not, by itself, create security for those certificates which does not otherwise exist. Second, while the Sisters may have believed that their certificates were collateralized, there is no evidence that they believed themselves to be a "secured creditor" with priority over others with shares in Franklin. The basis for the Sisters' belief that their certificates were collateralized was the letters they received from Franklin representatives. Those letters (Request, Exhibit N) merely stated that Franklin had "invested your deposit in United States Government Securities through a mutual fund in which we participate, and these securities are now pledged as collateral for your deposit." The letters did not indicate that the securities were in the Sisters' name, were otherwise segregated as to the Sisters, were not collateral for other deposits made in Franklin, or granted the Sisters any priority over other depositors. The share certificates themselves did not indicate that they were secured. Instead, as is common with all share certificates, they simply provided for

payment of dividends at specified rates at certain times, in the event that Franklin was profitable.

Perhaps the most significant fact bearing on the Sisters' claim that they believed themselves to be a secured creditor is that, upon learning of Franklin's insolvency, they filed not a creditor claim, but a claim for share insurance. Although the Agent's notice to creditors clearly indicated that they must file their creditor claims within four months of November 25, 1988, the Sisters filed only an insurance claim within that time. They then accepted the Agent's payment of insurance without appealing his determination of insurability. The Sisters also accepted, without objection, the Agent's March 2, 1989, Insurance Certificate which clearly stated, "The claim for uninsured savings account which is represented by this certificate, if not disallowed, shall be entitled to a pro rata share of any and all liquidating distributions paid on allowed claims of share interest by the duly appointed liquidating Agent " Not until August, 1989, nine months after Franklin's failure, did the Sisters make any type of written creditor claim. These facts support an inference that, although the Sisters may have believed their shares to be protected, they did not consider themselves a secured creditor of Franklin.

2. General Creditor Status

The Sisters claim that, if not a secured creditor, they are a general creditor of Franklin, and thereby entitled to priority over members to the extent of uninsured shares, and the NCUSIF. They also suggest that, although costs and expenses of liquidation take priority over general creditors, the Agent made improper expenditures relating to the liquidation, and the amount of those expenditures should be made available by the NCUA to satisfy the Sisters' general creditor claim. The Sisters do not identify any of the allegedly improper expenses.

As discussed in the preceding section, the Board finds that the Sisters were not a creditor of Franklin. Therefore, they are not entitled even to the limited priority granted general creditors by the Priority Schedule.¹ The Board also notes that the Sisters' argument regarding the Agent's expenditures is spurious. The Agent, as the duly authorized agent of the liquidating agent, had broad authority under the Act to make such expenses as he deemed necessary. Section 207(a)(2)

¹The priority schedule for liquidation payouts by the NCUA was published in the Federal Register on December 2, 1986. (See 51 F.R. 43383.) All uninsured shareholders are treated equally.

(12 U.S.C. §1787(a)(2))¹ states, in part, "All fees, compensation, and expenses of liquidation and administration therefor shall be fixed by the Board and may be paid by it out of funds coming into its possession as such liquidating agent." In light of the Agent's clear authority and the complete lack of evidence offered by the Sisters, the Board sees no reason to deem the Agent's expenditures improper. In any event, the issue is moot since the Board finds that the Sisters were not a general creditor of Franklin.

3. Constructive Trust

The Sisters argue that a constructive trust in their behalf should be imposed against Franklin's assets. The Sisters' argument is somewhat unclear, but seems to be predicated on two ideas: first, that they were different from others who purchased shares in Franklin and, second, that the NCUA negligently supervised or regulated Franklin and that negligence justifies imposition of a constructive trust.

The Sisters offer no proof of NCUA's alleged negligence in supervising and/or regulating Franklin, beyond inclusion of excerpts of congressional testimony by NCUA representatives,

¹The language in Section 207(a)(2) was previously found in Section 207(a)(3) and may be referred to as such in earlier documents. It was renumbered due to changes made by FIRREA in August 1989.

in which they note that Franklin had problems for some time before its fall. Even assuming that the Sisters did show negligence by the NCUA, that would not entitle them to a constructive trust. "The regulatory activities of a government agency do not give rise to a duty to discover and report possible fraud or wrongdoing to a bank or its officers, directors, shareholders, creditors, or depositors." Federal Deposit Insurance Corp. v. Renda, 692 F. Supp. 128, 135 (D.Kan. 1988) and cases cited therein. (See, Gary Sheet & Tin Employees Federal Credit Union v. United States, 605 F. Supp. 916 (N.D. Ind. 1985) (No cause of action against NCUA on theory of negligent supervision/regulation).) The NCUA was under no duty to prevent, discover or warn shareholders of Franklin about fraudulent activities, and the Sisters have no claim based on regulatory negligence.

Moreover, the fundamental difference between the NCUA as regulator and the NCUA as liquidator precludes the Sisters from basing a claim on alleged regulatory negligence. In the case of National Credit Union Administration Board v. Fisher, 653 F. Supp. 349 (E.D. Mo. 1986), the Board brought suit in its capacity as liquidating agent for the Zionics Federal Credit Union. The defendant attempted to assert certain affirmative defenses, based on alleged negligence by the Board

in its regulation of Zioniac. The court noted that, under the Act, the Board has two distinct functions: (1) to provide insurance and regulation of credit unions and (2) to act as a liquidator for insolvent credit unions. The court found that the defendant could not assert affirmative defenses based on the acts of the Board as regulator because,

when a federal instrumentality acts as a liquidating agent for a financial institution, the instrumentality stands in the shoes of the insolvent institution. . . . Thus, [the Board] acting as liquidating agent for Zioniac is clearly a separate entity from [the Board] acting as insurer/regulator. . . . Affirmative defenses could be raised against [the Board] pertaining to acts or omissions committed by Zioniac or by [the Board] as liquidating agent. However, [the Board] as insurer/regulator is not a party to this action and the acts or omissions alleged in the affirmative defenses of defendants cannot be attributed to the

plaintiff in the instant case. 653 F.
Supp. at 350.

Clearly, the Sisters cannot impose a constructive trust on assets controlled by the NCUA as liquidating agent, based on alleged negligence by the NCUA as regulator.

The Sisters' remaining argument in favor of a constructive trust is incomplete and unpersuasive. The application of constructive trusts to receiverships is governed by federal common law. Federal Deposit Insurance Corp. v. Mademoiselle of California, 379 F.2d 660, 662-3 (9th Cir. 1967). Under federal common law, one seeking imposition of a constructive trust must prove three elements: that the financial institution's fraud caused a harm that is not shared by substantially all depositors, Downriver Community Federal Credit Union v. Penn Square Bank, 879 F.2d 754 (10th Cir. 1989), cert. denied 110 S. Ct. 1112 (1990); that the imposition of the trust would not disrupt the orderly administration of the receiver's estate, Id.; and that there is a segregated fund or property to which the trust can attach, Matter of Weis Securities, Inc., 605 F.2d 590, 597 (2d Cir. 1978) cert. denied Grossman v. Redington, 439 U.S. 1128 (1979). As discussed more fully below, the Sisters have not proven these elements.

First, the Sisters have failed to show that Franklin's fraudulent acts affected them differently from other depositors. The court in Downriver stressed the fact that all depositors were potentially subjected to the bank's misrepresentations. The same is true of Franklin's depositors, all of whom were lied to with regard to financial condition, and many of whom, like the Sisters, were induced to make deposits based on fraudulent representations concerning Franklin's charitable mission. While the Sisters assert that they were the only depositors who were told that their deposits were collateralized, they offer no proof of that fact. Their mere assertion is not enough to justify the preferential treatment they seek.

Addressing the second element, the remedy sought by the Sisters would jeopardize the NCUA's orderly administration of the estate. The Act and the Priority Schedule clearly contemplate an expeditious, orderly liquidation without preferential treatment within classes. The Sisters would have the Board grant them a preference over other accountholders, in contravention of that scheme. One seeking a preference through imposition of a constructive trust bears the heavy burden of justifying his request. Downriver;

Jennings v. United States Fidelity & Guarantee Co., 294 U.S. 216, 226 (1935). The Sisters simply have not met that burden.

Lastly, nothing in the letters given the Sisters by Franklin, or in any other documentation furnished by the Sisters, indicates that either the funds deposited by the Sisters or the securities allegedly collateralizing those deposits were in any way set apart from the other funds that came into Franklin. The Sisters are unable to trace or identify their monies. Thus, there is no segregated fund to which a constructive trust could attach. Further, at the time of Franklin's closing, the funds in Franklin were insufficient to fund any such trust.

4. Time Bar

The Board finds that the Sisters' creditor claim was filed after the statutory deadline imposed by Section 207(a)(2) of the Act (as in effect at the relevant time) (12 U.S.C. §1787(a)(2)(1988)). Under the statute and the notice to creditors issued by the Agent pursuant thereto, all creditors

having claims were required to present those claims, in the form specified in the notice, to the Agent within four months of the first publication of the notice to creditors, that is, no later than March 25, 1989. The Sisters failed to do so.

Although they did not address the issue of timely filing of the creditor claim in their Request, the Sisters argued at the hearing and in their Post-Hearing Reply ("Reply") that

they did in fact submit their creditor claim within the proper time. The Sisters' attorney stated at the hearing:

. . . first of all, we made our claims. We didn't put all these claims in, but it was around the early part of November that I first went in and met Leslie [Leslie Conover, an attorney with NCUA] and Mr. Skiles [Leonard Skiles, then the Director of NCUA Region V], and then we made our claims in writing on December 22, 1988. It was within a month or a little over a month from that the Franklin first went into liquidation. . . That claim was made December 22, 1988, by

the way, for the total two point four hundred fifty thousand dollars. (Transcript of 8/27/90 Board hearing ("Transcript"), pp. 33-34)

Counsel for the Sisters also argued:

"Why did I give Leslie [Conover] the first day I met her the letters saying, hey, you are a secured creditor? . . . How come when we wrote our first formal letters to the liquidator did we include all of these letters showing that we are secured creditors? The answer is, because we were of course asserting the fact that we had these letters showing that we were secured creditors and we wanted to enforce our rights, what was going on? There is no question about the fact that we made our claim." (Transcript, pp. 72-73)

The Board is not persuaded by these arguments. Neither the December 8, 1988, letter nor the December 22, 1988, amended

claim to which counsel for the Sisters referred (Attachment 1) makes mention of a creditor claim, nor does either refer to the Sisters as a creditor or potential creditor. Moreover, the letters are not in the form required for presentation of creditor claims, that is, "under oath or affirmation duly administered by a notary public or other person legally empowered to administer the same." Attached to each letter is a standard NCUA share certificate claim form, which states that, "Each documented claim will be reviewed to determine its insurability." Nowhere in the letters themselves, the claim form, or the numerous other attachments is there any mention of a creditor claim. Further, none of the letters that the Sisters received from Franklin discussing collateralization is attached to the December 22, 1988, amended claim letter, which superseded the Decemebr 8, 1988, letter. Even if the letters from Franklin had been attached, that fact would not have transformed the otherwise inadequate claim letters into creditor claims. The letters are clearly claims for insurance, and the Agent properly treated them as such.

Counsel's alleged conversations with Ms. Conover and Mr. Skiles are equally inadequate to constitute a creditor claim. Even assuming that the content of the conversations was such

that they provided notice of the Sisters' contention that they were creditors, the "claim" was not in the proper written, notarized form.

In their Reply, the Sisters refer for the first time to a letter dated December 23, 1988, which they also attempt to characterize as a creditor claim. Again, the Board is not persuaded. The December 23 letter is not in the proper form for a creditor claim. Moreover, it does not mention creditor status. Instead, the letter sets forth the Sisters' arguments as to why the various entities that made up the Presentation Sisters Fund B account should be deemed to have separate insurable interests of up to \$100,000 each, rather than a total of \$100,000 for the account as a whole. The December 23, 1988, letter was not a creditor claim.

The Sisters also argue that their claim is not time barred because the current notice provisions of Section 207 require mailing of a notice to creditors, and they did not receive a mail notice. However, the notice provisions in effect at the relevant time (Section 207(a)(2), 12 U.S.C. §1787(a)(2)(1988)) required only notice by publication. The Agent complied with that requirement.


The Board finds that the Sisters failed to meet the time requirements of the statute and the notice for filing of creditor claims. The Sisters' claim is therefore time barred.

Final Order

Pursuant to the Authority vested in the National Credit Union Administration Board by 12 U.S.C. Section 1787(b)(7)(A), the claim of the Presentation Sisters for creditor status and priority payment of \$2,114,596.44 in uninsured shares plus costs and interest thereon is hereby denied, and the March 8, 1990, determination of the Agent is upheld.

The Board's Decision and Final Order are subject to judicial review under chapter 7 of title 5, United States Code.

So ordered this *17th* day of *January*, by the National Credit Union Administration Board.



BECKY BAKER

Secretary of the Board

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December 22, 1988

Franklin Community Federal
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P.O. Box 609, Downtown Station
Omaha, Nebraska 68101

Gentlemen:

The undersigned represents Presentation Sisters Fund B, of Aberdeen, South Dakota (hereinafter referred to as "Presentation Sisters"). At the time of the insolvency of the Franklin Community Federal Credit Union ("FCFCU"), Presentation Sisters held several Credit Union Share Certificates in the FCFCU. Pursuant to your request, we enclose a completed claim form for one of those share certificates, and the following documentation:

1. A copy of the 9/30/88 Statement of Account showing Presentation Sisters investments, including Credit Union Share Certificate No. 5072 (the "Certificate") in the principal amount of \$100,000.
2. A copy of Certificate No. 5072 along with a certification that the original Certificate is in the possession of the Sisters.
3. On May 30, 1986, certificate no. 3072 was purchased. That certificate matured on October 23, 1986, and the funds were reinvested in certificate no. 3937. That certificate matured on October 23, 1987, and the funds were reinvested in Certificate No. 5072. Copies of the relevant Presentation Sisters ledger sheets are enclosed.
4. As indicated in the claim, the contacts at FCFCU were Noel Seltzer and E. Thomas Harvey, Jr.

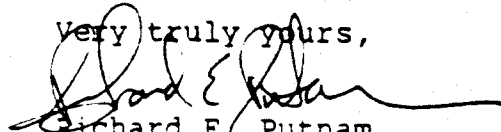
Attachment 1

Franklin Community Federal
Credit Union
December 22, 1988
Page 2

5. The Holder of the Certificate is the Presentation Sisters Fund B. The Fund is composed of deposits from various entities who have interests in the money invested by the Presentation Sisters Fund B. As evidenced by the Statement of Sister Stephen Davis accompanying the Certificate and the chart attached to this letter, the entities which have an interest in the funds deposited in Certificate No. 5072 are the contributors to the Central Administrative Services Minimum Premium Account.

We have been instructed by you to provide all the information currently available to substantiate our claim, and were told we would be contacted if the information provided in the claim was in any way deficient in any respect prior to final consideration by you. If you need supplementary information or documentation to verify and pay the claim, please contact the undersigned immediately.

Very truly yours,



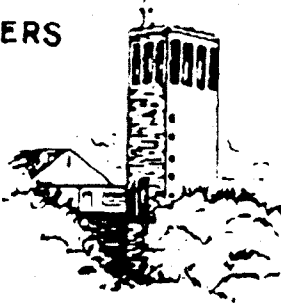
Richard E. Putnam
FOR THE FIRM

REP:pdo:P1221G

Enclosures

cc: Mr. Leonard Skiles
Mr. Gene Jackson
Ms. Leslie Conover

PRESENTATION SISTERS



CENTRAL ADMINISTRATIVE SERVICES

Presentation Heights
1500 North Second
Aberdeen, South Dakota 57401

(605) 229 8445

(605) 229 8448

November 17, 1988

PRESENTATION SISTERS BLUE CROSS MINIMUM PREMIUM ACCOUNT
1500 NORTH SECOND AVE.
ABERDEEN, SOUTH DAKOTA 57401

<u>October 1988 Facilities</u>	<u>Amount</u>	<u>Percentage</u>	
St. Joseph Hospital Polson, MT	\$4,473.00	2.69%	\$2,690.00
Accounts Management, Inc Sioux Falls, SD	453.00	.27%	270.00
PACE Sioux Falls, SD	587.00	.35%	350.00
McKenna Hospital Sioux Falls, SD	77,681.00	46.75%	46,750.00
Presentation Convent Aberdeen, SD	881.00	.54%	540.00
Holy Rosary Hospital Miles City, MT	6,844.00	5.32%	5,320.00
Prince of Peace Sioux Falls, SD	3,476.00	2.09%	2,090.00
Midwest Nursing Aberdeen, SD	155.55	.09%	90.00
Home Care Supply Aberdeen, SD	269.00	.16%	160.00
St. Lukes Hospital Aberdeen, SD	48,904.05	29.43%	29,430.00
Brady Memorial Home Mitchell, SD	2,914.00	1.76%	17.60
Wilco/Brady Memorial Home			

PRESENTATION SISTERS BLUE CROSS MINIMUM PREMIUM ACCOUNT

<u>October 1988 Facilities</u>	<u>Amount</u>	<u>Percentage</u>	
Mother Joseph Memorial Aberdeen, SD	\$3,280.00	1.97%	\$1,970.00
Garberson Clinic Miles City, MT	1,278.00	.77%	770.00
Garberson Clinic Miles City, MT	1,229.00	.74%	740.00
Eastern Dakota Health Co. Sioux Falls, SD	477.00	.29%	290.00
Presentation College Aberdeen, SD	3,646.00	2.19%	2,190.00
Garfield Health Clinic Miles City, MT	1,048.00	.63%	630.00
Powder River Clinic Polson, MT	164.00	.10%	100.00
Garberson Clinic Miles City, MT	115.00	.07%	70.00
Family Physicians Clinic Redfield, SD	440.00	.26%	260.00
Eastern Dakota Health Co. Sioux Falls, SD	917.00	.55%	550.00
St. Joseph Hospital Polson, MT	4,571.00	2.75%	2,750.00
TOTALS	<u>\$166,169.60</u>	<u>100%</u>	<u>\$100,000.00</u>



NATIONAL CREDIT UNION ADMINISTRATION
REGION V

AMENDED CLAIM
CERTIFICATE OF DEPOSIT CLAIMANTS

The National Credit Union Administration placed the Franklin Community Federal Credit Union of Omaha, Nebraska, into liquidation November 10, 1988. Certificate of deposit holders must provide the NCUA's liquidating agent with documented proofs of claim. This should include a CERTIFIED, NOTORIZED COPY OF THE CERTIFICATE, A COPY OF THE CANCELLED CHECK OR BANK WIRE SHOWING PROOF OF DEPOSIT, AND A STATEMENT INDICATING THE NAME OF THE PERSON FROM WHOM THE CERTIFICATE WAS PURCHASED. Each documented claim will be reviewed to determine its insurability. Proofs of Claim should be mailed to Franklin Community FCU, P. O. Box 609, Downtown Station, Omaha, Nebraska 68101. The process of verifying valid claims will be completed prior to the pay out of any claims on certificates of deposit.

Certificate holders should provide the following information: (This claim form is not required if a claim form and copies of the documents noted above have already been submitted to NCUA.)

NAME(S) OF HOLDERS	Presentation Sisters Fund B
ACCOUNT NUMBER	6259; Certificate Number 5072
MATURITY DATE	October 23, 1990
AMOUNT DEPOSITED	\$100,000
COPY OF 9/30/88 OR LATEST AVAILABLE STATEMENT OF ACCOUNT	Enclosed
CURRENT MAILING ADDRESS	Presentation Sisters, Central Administrative Services, Presentation Heights, 1500 North Second, Aberdeen, South Dakota 57-
CURRENT PHONE NUMBER	605-229-8445 or 605-229-8448
NAME OF PERSON WHO REQUESTED YOUR DEPOSIT	Noel Seltzer E. Thomas Harvey, Jr.

STATEMENT OF SISTER STEPHEN DAVIS

I, Sister Stephen Davis, being first duly sworn upon oath, do hereby state as follows:

1. I am currently employed as Coordinator of Finances for the Presentation Sisters of Aberdeen, South Dakota, and pursuant to such employment I am familiar with Franklin Community Federal Credit Union Share Certificate 5072, held by Presentation Sisters Fund "B".

2. Attached hereto is a true and accurate copy of Franklin Community Federal Credit Union Share Certificate No. 5072. The entity which deposited the \$100,000 for investment with the Presentation Sisters Fund "B" and thus the entity with the interest in the funds evidenced by the Certificate is Central Administrative Services Minimum Premium Account contributions.

3. The original of the Share Certificate is held by Presentation Sisters, Central Administrative Services, Presentation Heights, 1500 North Second Street, Aberdeen, South Dakota 57401.

Dated: September 20, 1981.

Sister Stephen Davis
Sister Stephen Davis

STATE OF South Dakota)

COUNTY OF Blaine)

On this 23rd day of December, 1988, before me, the undersigned, a Notary Public duly commissioned and qualified in and for said county and state, personally came Sister Stephen Davis, to me known to be the identical person whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and notarial seal the day and year last above written.

Wiley Johnston
Notary Public

MY COMMISSION EXPIRES: June 20 - 1991

10/23/87

CREDIT UNION SHARE CERTIFICATE

6259

Date Issued
5072

Account Number
46-0253283

Certificate Number

FRANKLIN COMMUNITY FEDERAL CREDIT UNION

Social Security Number

This is to certify that **Presentation Sisters Fund "B"**
(name) **Presentation Convent**
1500 North Second Street, Aberdeen, SD 57401
(address)

SHARE IN THE NAME OF TWO
OR MORE OWNERS INDICATES
JOINT OWNERSHIP WITH FULL
RIGHTS OF SURVIVORSHIP
OWNERSHIP AS TENANTS IN
COMMON
OTHER

(is) ~~(is)~~ the owner(s) of a share certificate account in the above-named credit union in the

amount of **One Hundred Thousand and no/100** Dollars (\$ **100000.00**) This certificate
may be redeemed on **10/23/90** only upon presentation of the certificate to the credit union
(maturity date)

This certificate may not be pledged, transferred or assigned to any party other than the credit union. Any owner may pledge the certificate as collateral security for a loan or loans from the credit union without the consent of the other owner(s). Credit union bylaws give the credit union the authority to impose a notice of up to **N/A** days for withdrawal of shares

The dividend rate for the certificate is **9.900** % per annum on the actual amount in the account. Dividends are compounded **Monthly** and are available to the owner(s) **Monthly**
(specify period) (specify period)

added to principal.

check or draft transfer from another account

Purchased by **X** **Renewal**
 Cash Other

Dividends are to be paid to regular share account No. _____

Party redeeming certificate _____

Address _____

Social security number _____

Date _____

mailed to owner(s)

A substantial penalty is imposed if certificate funds other than dividends are withdrawn before the maturity date. The penalty does not apply to any of the following early withdrawals: withdrawals subsequent to the death of any owner; withdrawal after the close of the dividend period in which the owner's credit union membership was terminated under the provisions of the bylaws; and withdrawal as a result of liquidation of the credit union.

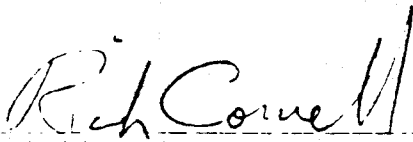
If the term of this certificate is seven to 31 days, the forfeiture is an amount equal to the greater of (1) all dividends earned on the amount withdrawn or (2) all dividends that could have been earned on the amount withdrawn during a period equal to one-half the maturity period. If the term of this certificate is 32 days to one year, the forfeiture is an amount equal to one month's dividends, whether earned or not. If the term of this certificate is more than one year, the forfeiture is an amount equal to three months' dividends, whether earned or not.

If the term of this certificate is 32 days or more, the principal amount upon which the forfeiture is calculated is the amount withdrawn unless the amount withdrawn reduces the balance below \$ **100000.00**. In that event, the principal amount upon which the forfeiture is calculated is the entire amount of the certificate.

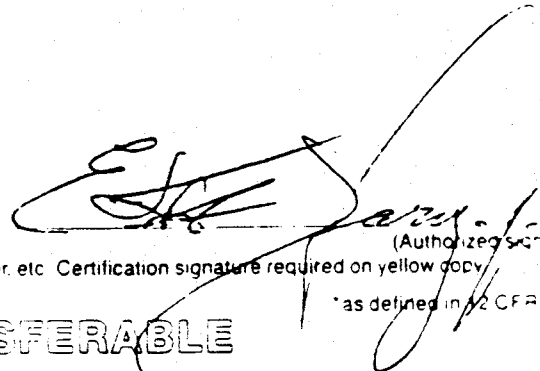
The credit union will give the owner(s) at least 10 days' notice prior to maturity. The notice will inform the owner(s) of the terms, if any, under which the credit union proposes to renew the certificate. If the certificate is not renewed at maturity the credit union will transfer all certificate funds to the regular share account of owner(s) or pay all certificate funds directly to owner(s). If this certificate is not renewed at maturity and the owner has no other share or share certificate account, membership in the credit union will terminate.

Individual Retirement or Keogh Plans. If this certificate is part of a qualified individual retirement or Keogh plan, it may not be pledged, transferred or assigned and is not subject to any pledge of shares or deposits that owner(s) has previously signed. Credit union disclaims any such pledge with respect to this certificate. In addition, the forfeiture of dividends does not apply if the early withdrawal is made because of the participant's disability or attainment of not less than 59 1/2 years of age. See your tax disclosure statements for further information.

Additional account information:



(Authorized signature)



(Authorized signature)

Note: Reverse side contains certification as to taxpayer identification number, etc. Certification signature required on yellow copy.

*** NOT TRANSFERABLE ***

DIVIDEND PAYMENT RECORD
(MEMBER RECORD)

SHARE CERTIFICATE
INTEREST RECORD AND TICKLER
FILE COPY
(C.U. RECORD)

DATE	AMOUNT	HOW PAID	CHECK # OR ACCT. #	BALANCE	DATE	CHECK NUMBER	AMOUNT	INTEREST PAID TO

(Instruction to Signer: If you have been notified by the Internal Revenue Service (IRS) that you are subject to backup withholding due to payee underreporting and you have not received a notice from the IRS that the backup withholding has terminated, you must strike out the language in clause 2 of whichever certification you sign below.)

**CERTIFICATION AS TO TAXPAYER IDENTIFICATION
NUMBER AND BACKUP WITHHOLDING**

Under penalties of perjury, I certify (1) that _____ is my correct taxpayer identification number and (2) that I am not subject to backup withholding either because I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service (IRS) has notified me that I am no longer subject to backup withholding.

Signature _____ Date _____

CERTIFICATION IF AWAITING NUMBER

Under penalties of perjury, I certify (1) that a taxpayer identification number has not been issued to me, and that I mailed or delivered an application to receive a taxpayer identification number to the appropriate Internal Revenue Service Center or Social Security Administration Office (or I intend to mail or deliver an application in the near future), and (2) that I am not subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service (IRS) has notified me that I am no longer subject to backup withholding.

I understand that if I do not provide a taxpayer identification number to the credit union within 60 days, the credit union is required to withhold 20 percent of all reportable payments thereafter made to me until I provide a number.

Signature _____ Date _____

FCFCU

FRANKLIN COMMUNITY FEDERAL
CREDIT UNION

ACCOUNT NO. 6259
STATEMENT PERIOD
FROM 07/01/1988
TO 09/30/1988

STATEMENT OF ACCOUNT

PAGE 2

PRESENTATION SISTERS
FUND "B"
1500 NORTH SECOND ST.
ABERDEEN, SD 57401

EFFECTIVE DATE MO. DAY	POSTING DATE MO. DAY	DESCRIPTION	SHARE AMOUNT OR PRINCIPAL	FINANCE CHARGE OR FEE	NEW BALANCE
		C. D. 23			
		PREVIOUS BALANCE			25205479
07 01	07 01	CD DIV W/D JE	-205479		25000000
07 31	07 31	CD DIV PD	212329		25212329
08 01	08 01	CD DIV W/D JE	-212329		25000000
08 31	08 31	CD DIV PD	212329		25212329
09 01	09 01	CD DIV W/D JE	-212329		25000000
09 29	09 29	CD DIV PAID JE	198630		25198630
09 29	09 29	CLOSE CD JE	-25198630		0
		NEW BALANCE			0
		C. D. 24			
		PREVIOUS BALANCE			10069863
07 01	07 01	CD DIV W/D JE	-69863		10000000
07 31	07 31	CD DIV PD	72192		10072192
08 01	08 01	CD DIV W/D JE	-72192		10000000
08 31	08 31	CD DIV PD	72192		10072192
09 01	09 01	CD DIV W/D JE	-72192		10000000
09 30	09 30	CD DIV PD	69863		10069863
		NEW BALANCE			10069863
		C. D. 25			
		PREVIOUS BALANCE			0
09 29	09 29	NEW CD JE	25000000		25000000
09 30	09 30	CD DIV PD	6849		25006849
		NEW BALANCE			25006849
		C. D. 28			
		PREVIOUS BALANCE			20139726
07 01	07 01	CD DIV W/D JE	-139726		20000000
07 31	07 31	CD DIV PD	144384		20144384
08 01	08 01	CD DIV W/D JE	-144384		20000000
08 31	08 31	CD DIV PD	144384		20144384
09 01	09 01	CD DIV W/D JE	-144384		20000000
		NEW BALANCE			20000000

SUMMARY OF DIVIDEND AND INTEREST INFORMATION

ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST

← TAXABLE DIVIDEND THIS YEAR

← FINANCE CHG PAID THIS PERIOD
FINANCE CHG PAID YTD →

THIS DIVIDEND WILL BE REPORTED TO THE IRS AS INTEREST EARNED THIS CALENDAR YEAR

FCFCU

FRANKLIN COMMUNITY FEDERAL
CREDIT UNION

ACCOUNT NUMBER

6259

STATEMENT PERIOD

FROM 07/01/1988

TO 09/30/1988

STATEMENT OF ACCOUNT

PAGE 3

PRESENTATION SISTERS
FUND "B"
1500 NORTH SECOND ST.
ABERDEEN, SD 57401

EFFECTIVE DATE MO. DAY	POSTING DATE MO. DAY	DESCRIPTION	SHARE AMOUNT OR PRINCIPAL	FINANCE CHARGE OR FEE	NEW BALANCE
09 30	09 30	CD DIV PD NEW BALANCE	139726		2013972 2013972
		C. D. 30 PREVIOUS BALANCE			2013890
07 01	07 01	CD DIV W/D JE	-138904		2000000
07 31	07 31	CD DIV PD	143534		2014353
08 01	08 01	CD DIV W/D JE	-143534		2000000
08 03	08 03	CD DIV PAID JE	13890		2001389
08 03	08 03	CLOSE CD JE NEW BALANCE	-20013890		
		C. D. 32 PREVIOUS BALANCE			1006986
07 01	07 01	CD DIV W/D JE	-69863		1000000
07 31	07 31	CD DIV PD	72192		1007219
08 01	08 01	CD DIV W/D JE	-72192		1000000
08 31	08 31	CD DIV PD	72192		1007219
09 01	09 01	CD DIV W/D JE	-72192		1000000
09 30	09 30	CD DIV PD NEW BALANCE	69863		1006986 1006986
		C. D. 33 PREVIOUS BALANCE			1006986
07 01	07 01	CD DIV W/D JE	-69863		1000000
07 31	07 31	CD DIV PD	72192		1007219
08 01	08 01	CD DIV W/D JE	-72192		1000000
08 31	08 31	CD DIV PD	72192		1007219
09 01	09 01	CD DIV W/D JE	-72192		1000000
09 30	09 30	CD DIV PD NEW BALANCE	69863		1006986 1006986
		C. D. 34 PREVIOUS BALANCE			1510171

SUMMARY OF DIVIDEND AND INTEREST INFORMATION									
ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST	ACCT.	YTD DIVIDEND OR INTEREST

← TAXABLE DIVIDEND THIS YEAR → ← FINANCE CHG PAID THIS PERIOD FINANCE CHG PAID YTD →

THIS DIVIDEND WILL BE REPORTED TO THE IRS AS INTEREST EARNED THIS CALENDAR YEAR

FCFCU

FRANKLIN COMMUNITY FEDERAL
CREDIT UNION

STATEMENT OF ACCOUNT

ACCOUNT NUMBER
6259
STATEMENT PERIOD
FROM **07/01/1988**
TO **09/30/1988**

PAGE 4

PRESENTATION SISTERS
FUND "B"
1500 NORTH SECOND ST.
ABERDEEN, SD 57401

EFFECTIVE DATE MO DAY	POSTING DATE MO DAY	DESCRIPTION	SHARE AMOUNT OR PRINCIPAL	FINANCE CHARGE OR FEE	NEW BALANCE
07 01	07 01	CD DIV W/D JE			
07 31	07 31	CD DIV PD	-101712		15000000
08 01	08 01	CD DIV W/D JE	105103		15105103
08 31	08 31	CD DIV PD	-105103		15000000
09 01	09 01	CD DIV W/D JE	105103		15105103
09 30	09 30	CD DIV PD	-105103		15000000
		NEW BALANCE	101712		15101712
		C. D. 35			15101712
		PREVIOUS BALANCE			
07 01	07 01	CD DIV W/D JE			15107877
07 31	07 31	CD DIV PD	-107877		15000000
08 01	08 01	CD DIV W/D JE	111473		15111473
08 31	08 31	CD DIV PD	-111473		15000000
09 01	09 01	CD DIV W/D JE	111473		15111473
09 30	09 30	CD DIV PD	-111473		15000000
		NEW BALANCE	107877		15107877
		C. D. 36			15107877
		PREVIOUS BALANCE			
07 01	07 01	CD DIV W/D JE			10046575
07 31	07 31	CD DIV PD	-46575		10000000
08 01	08 01	CD DIV W/D JE	72192		10072192
08 31	08 31	CD DIV PD	-72192		10000000
09 01	09 01	CD DIV W/D JE	72192		10072192
09 30	09 30	CD DIV PD	-72192		10000000
		NEW BALANCE	69863		10069863

ACCT	YTD DIVIDEND OR INTEREST	ACCT	YTD DIVIDEND OR INTEREST	ACCT	YTD DIVIDEND OR INTEREST	ACCT	YTD DIVIDEND OR INTEREST	ACCT	YTD DIVIDEND OR INTEREST
S 1	0	C20	743178	C21	279672	C22	8069866	C23	1869863
C24	416850	C25	6849	C28	815070	C30	1000108	C32	363288
C33	433151	C34	457705	C35	478255	C36	260822		

18178067 ← TAXABLE DIVIDEND THIS YEAR

0 ← FINANCE CHG PAID THIS PERIOD FINANCE CHG PAID YTD

THIS DIVIDEND WILL BE REPORTED TO YOU AS AN INTEREST EARNED THIS CALENDAR YEAR

OUR OFFICES IN NORTH AND SOUTH OMAHA OFFER A FREE

DATE
19 80

May

30 PHS Foundation Checking

PHS Foundation undesignated
 King County (aving for file)
 The Kennan Hospital undesignated
 The Kennan Living for file
 Dr. Duke's undesignated
 Pine Logic Foundation fund
 Charitable deposits of April & May '80

05-1011	1915	25	✓
05-2410		80	✓
05-2420.1		1265	✓
05-2430		335	✓
05-2430.4		60	✓
05-2440		50	✓
05-2490			

30 Savings Account

Due to BC Minimum Premium Acct.
 to record the Blue Cross Min. Premium
 investment on fund B books
 CD# 3072 Transitions Community \$100,000 @ 11%
 to mature 10-23-80
 (1) = 194521 Financial Security ^{94.10} ~~100.00~~ @ 10.625%
 to mature 10-24-88

05-1101	199000	198000	✓
05-2112			

30 Blue Cross Minimum Premium Checking

Due to BC Minimum Premium Acct.
 to record 3C Min. Premium checking @ 5.31%,
 includes interest earned through 6-12-80

05-1012	50216.12	50216.12	✓
05-2112			

30 Wickman, Leckie & Company

Due to BC Minimum Premium Acct.
 to record BC Min. Premium funds held in
 common stocks

05-1013	201709.50	201709.50	✓
05-2112			

30 Special Reserve Funds

Platinum Ogusaka Retirement
 to agree prior to actual PAR given 1000 circular
 12-11-85

05-2115	71309.51	71309.51	✓
05-1102			

30 Bank on Bank

Due to The Kennan Life Reduction
 to record April '80 interest

05-1010	75283	75283	✓
05-2162.2			

ACCOUNT DESCRIPTION PERIOD DATE

DATE	DESCRIPTION	AMOUNT	CHARGES	DEBITS	BALANCE
Oct 23	Savings Account	05 1111	100000 -	100000 -	
	Savings Account	05 1111			
	Channing Community CD #3937 matured, funds reinvested @ 5.19% to mature 10 23 40				
23	Cash in Bank	05 1010	630162 ✓	630162 ✓	
	Due to McKinnon First Reduction	05 2102			
	Initial Union Bank Deposit				
24	United Federal Savings & Loan	05 1103	674178 ✓	3401 ✓	
	Reduction - Interest to distribution	05 2403		1676 ✓	
	Due to the National Trust	05 2113		2173 ✓	
	(Advance for direct taxes)	05 2114		12450 ✓	
	Due to the State's	05 2101		18813 ✓	
	Due to Mother Joseph Manor	05 2106		27686 ✓	
	Due to McKinnon First Reduction	05 2022		1079 ✓	
	Due to the People's Capital	05 2103			
	Interest earned thru 10 24 37				
to Bond		05 1111	104472 ✓	104472 ✓	
	Due to McKinnon First Reduction	05 2102			
	Charter Securities Trust dividend				
26	Navalyn Synch Realty Trust Trust	05 1105	7583 -	7583 -	
	Advance Wash State	05 1501			
27	Share	05 1111	979419 ✓	415861 ✓	
	Due to McKinnon First Reduction	05 2102		102349 ✓	
	Due to the People's Capital	05 2103		252298 ✓	
	Due to State National Trust	05 2105		28991 ✓	
	Capital Reserve Fund	05 2114		90694 ✓	
	Blue Cross Minimum Premium Account	05 2112		24094 ✓	
	Due to Mother Joseph Manor	05 2106		19490 ✓	
	Due to State National Trust	05 2107		11460 ✓	
	State Family Protected Retirement	05 2100			
	Transfer account to the distribution	05 2105		341182 ✓	

All Retirement accounts fund interest



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

January 17, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard E. Putnam, Esq.
Gerald P. Laughlin, Esq.
Baird, Holm, McEachen, Pedersen,
Hamann & Strasheim
1500 Woodmen Tower
Omaha, Nebraska 68102

David K. Karnes, Esq.
Kutak, Rock & Campbell
1650 Farnam Street
Omaha, Nebraska 68102

Don A. Bierle, Esq.
Bierle, Porter & Nelson
P.O. Box 38
Yankton, South Dakota 57078

**Re: Request for Administrative Review - Sisters of
the Presentation of the Blessed Virgin Mary of
Aberdeen, South Dakota**

Gentlemen:

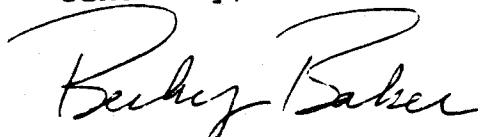
The NCUA Board considered the above-referenced matter at its January 17, 1991 meeting. Please be advised that the Board has denied the Presentation Sisters' appeal, and upheld the decision of the Agent for the Liquidating Agent.

Enclosed is a copy of the Board's decision.

FOIA Vol. IV, A, 5

The Board's decision is a final determination under Section 207(b)(7)(A) of the Federal Credit Union Act (12 U.S.C. §1787(b)(7)(A)). As such, it is subject to judicial review under chapter 7 of title 5, United States Code.

Sincerely,



Becky Baker
Secretary to the Board
National Credit Union
Administration Board

GC/MRS:sg
SSIC 1044
90-0510

Enclosure