

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

IOWA CREDIT UNION LEAGUE;
IOWA CREDIT UNION FOUNDATION, INC.;
AMC EMPLOYEE BENEFITS COMPANY, LLC;
CREDIT UNION PAC; 1st GATEWAY CREDIT
UNION; ACE CREDIT UNION; ADVANTAGE
CREDIT UNION, f/k/a TRI-COUNTY CREDIT
UNION; AFFINITY CREDIT UNION f/k/a 310
COMMUNITY CREDIT UNION; ALLEN
HOSPITAL PERSONNEL CREDIT UNION; AIM
CREDIT UNION, f/k/a ALLIANT CREDIT
UNION, including former KAH CREDIT UNION
and former THE HUB-CO CREDIT UNION;
ASCENTRA CREDIT UNION, f/k/a ALCOA
EMPLOYEES & COMMUNITY CREDIT UNION;
CAPITOL VIEW CREDIT UNION; CASEBINE
COMMUNITY CREDIT UNION; CEDAR FALLS
COMMUNITY CREDIT UNION; CENT CREDIT
UNION, f/k/a MERCY-CITY-LEHIGH FAMILY
CREDIT UNION, including former N.W. IOWA
CREDIT UNION; CITIZENS COMMUNITY
CREDIT UNION; COLLINS COMMUNITY
CREDIT UNION; COMMUNITY 1ST CREDIT
UNION; COMMUNITY CHOICE CREDIT
UNION; DES MOINES FIRE DEPARTMENT
CREDIT UNION; DES MOINES METRO CREDIT
UNION; DUBUQUE POSTAL EMPLOYEES
CREDIT UNION; DUPACO COMMUNITY
CREDIT UNION; DU PONT EMPLOYEES
CREDIT UNION; DU TRAC COMMUNITY
CREDIT UNION; FAMILY COMMUNITY
CREDIT UNION; FINANCIAL PLUS CREDIT
UNION; FIRST CLASS COMMUNITY CREDIT
UNION; FIRST FEDERAL CREDIT UNION;
FORT DODGE FAMILY CREDIT UNION; GAS
AND ELECTRIC EMPLOYEES CREDIT UNION;
GREATER IOWA CREDIT UNION;
GREENSTATE CREDIT UNION, f/k/a U OF I
COMMUNITY CREDIT UNION and BEST OF
IOWA COMMUNITY CREDIT UNION;
INDUSTRIAL EMPLOYEES CREDIT UNION;
IOWA HEARTLAND CREDIT UNION; JOURNEY
CREDIT UNION, f/k/a TRADESMEN
COMMUNITY CREDIT UNION; LENNOX
EMPLOYEES CREDIT UNION; LINN AREA

Case No. 2:23-cv-2255

CREDIT UNION; MEMBERS COMMUNITY CREDIT UNION, f/k/a HON INDUSTRIES COMMUNITY CREDIT UNION; MEMBERS^{1ST} COMMUNITY CREDIT UNION; MERIDIAN CREDIT UNION; METCO CREDIT UNION; MIDLAND CREDIT UNION; MIDWEST COMMUNITY CREDIT UNION; N.G.P.L. EMPLOYEES CREDIT UNION; NORTH IOWA COMMUNITY CREDIT UNION; NORTH STAR COMMUNITY CREDIT UNION; NORTH WESTERN EMPLOYEES CREDIT UNION; PEOPLES CREDIT UNION; POLK COUNTY CREDIT UNION; PREMIER CREDIT UNION; PUBLIC EMPLOYEES CREDIT UNION; QUAKER OATS CREDIT UNION; RIVER COMMUNITY CREDIT UNION, including former MUNI-EMPLOYEES CREDIT UNION; RIVER VALLEY CREDIT UNION; ST. ATHANASIUS CREDIT UNION; SERVE CREDIT UNION, f/k/a DES MOINES POLICE OFFICERS CREDIT UNION; SIOUX VALLEY COMMUNITY CREDIT UNION; TEAMSTERS LOCAL #238 CREDIT UNION; TELCO TRIAD COMMUNITY CREDIT UNION; THE FAMILY CREDIT UNION, including former DAVENPORT POLICE DEPARTMENT CREDIT UNION; TOWN AND COUNTRY CREDIT UNION; UNITE CREDIT UNION, f/k/a UNI CREDIT UNION; UNITED CREDIT UNION; VERIDIAN CREDIT UNION, f/k/a JOHN DEERE CREDIT UNION, including former WARREN CREDIT UNION; WATERLOO FIREMEN'S CREDIT UNION; AEGIS CREDIT UNION; COBALT CREDIT UNION, f/k/a SAC FEDERAL CREDIT UNION; and MARINE CREDIT UNION,

PLAINTIFFS,

v.

NATIONAL CREDIT UNION ADMINISTRATION BOARD, in its capacity as liquidating agent for U.S. Central Federal Credit Union,

DEFENDANT.

COMPLAINT

Plaintiffs, by and through their undersigned counsel, Foulston Siefkin LLP, submit this Complaint against the National Credit Union Administration Board, in its capacity as liquidating agent for U.S. Central Federal Credit Union (hereinafter the “NCUA”), and state as follows:

INTRODUCTION

1. Prior to the financial collapse in 2008–2009, U.S. Central Federal Credit Union (“U.S. Central”) was the largest corporate credit union in the United States. U.S. Central provided services to other corporate credit unions, including Iowa Corporate Central Credit Union (“ICCCU”). It acted as a “corporate credit union’s credit union.”

2. Due to investment losses incurred by U.S. Central, the NCUA implemented the Corporate Stabilization Program and placed U.S. Central into conservatorship in 2009. Later, on October 1, 2010, the NCUA closed U.S. Central and placed it into liquidation. The NCUA appointed itself the liquidating agent. After the U.S. Central Membership Capital Account (“MCA”) balances were depleted through the recognition of losses, the NCUA issued claim receipts to members with MCA and Paid-in Capital (“PIC”) accounts, specifically informing them in writing that “[n]o further action is required on your part to file or activate a liquidation claim.” ICCCU, as an MCA holder and PIC account holder of U.S. Central, received a claim receipt in 2010. ICCCU subsequently dissolved in 2013.

3. Years after ICCCU dissolved, the NCUA determined there were sufficient funds available to make an interim distribution to account holders of U.S. Central. However, even though the NCUA previously informed ICCCU that ICCCU had a claim for which no further action was required, the NCUA advised the former capital members of ICCCU that ICCCU was ineligible to receive a distribution because ICCCU no longer existed. The NCUA then advised that the former capital members of ICCCU could file individual claims. Although Plaintiffs filed

individual claims seeking their pro rata share of ICCCU's claim receipt payments, the NCUA disallowed the claims.

4. Plaintiffs include ICCCU's former capital members. Plaintiffs seek judicial determination that: (1) ICCCU's valid claim be distributed pro rata to its former members, (2) Plaintiffs' individual claims be allowed and paid; or (3) ICCCU's valid claim and payments due under the Claim Receipt be held to have escheated under state law and pass to the State Treasurer of Iowa for further distribution or held in trust for the benefit of ICCCU's former members and be distributed pro rata.

PARTIES

5. ICCCU was a state-chartered corporate central credit union organized under the laws of the State of Iowa. ICCCU was a member of U.S. Central and was voluntarily dissolved in 2013. The following Plaintiffs were all former capital members of ICCCU ("Former Member Plaintiffs").

6. Plaintiff Iowa Credit Union League is an Iowa not for profit corporation with its principal place of business located at 7745 Office Plaza Drive N, Suite 170, West Des Moines, IA 50266.

7. Plaintiff Iowa Credit Union Foundation, Inc., is an Iowa not for profit corporation with its principal place of business located at 7745 Office Plaza Drive N, Suite 170, West Des Moines, IA 50266.

8. Plaintiff AMC Employee Benefits Company, LLC, is an Iowa limited liability company with its principal place of business located at 7745 Office Plaza Drive N, Suite 170, West Des Moines, IA 50266.

9. Plaintiff Credit Union PAC is an Iowa political action committee with its principal place of business located at 7745 Office Plaza Drive N, Suite 170, West Des Moines, IA 50266.

10. Plaintiff 1st Gateway Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 2603 Camanche Industrial Park Dr, Camanche, IA 52730, Charter #63124.

11. Plaintiff ACE Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1028 14th St SE, Mason City, IA 50401, Charter #64323.

12. Plaintiff Advantage Credit Union, f/k/a Tri-County Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 121 W 3rd St. N, Newton, IA 50208, Charter #64030.

13. Plaintiff Affinity Credit Union, f/k/a 310 Community Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 475 NW Hoffman Lane, Des Moines, IA 50313, Charter #62829.

14. Plaintiff Allen Hospital Personnel Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1825 Logan Ave, Waterloo, IA 50703, Charter #67831.

15. Plaintiff AIM Credit Union, f/k/a Alliant Credit Union, including former KAH Credit Union and former The Hub-Co Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 1200 Associates Dr., Suite 102, Dubuque, IA 52002, Charter #64886.

16. Plaintiff Ascentra Credit Union, f/k/a ALCOA Employees & Community Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 2019 Grant St., Bettendorf, IA 52722, Charter #63268.

17. Plaintiff Capitol View Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 623 E 12th St., IA 50309, Charter #62878.

18. Plaintiff Casebine Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 485 W Burlington Ave., Burlington, IA 52601, Charter #64868.

19. Plaintiff Cedar Falls Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 123 W 4th St., Cedar Falls, IA 50613, Charter #65565.

20. Plaintiff CENT Credit Union, f/k/a Mercy-City-Lehigh Family Credit Union, including former N.W. Iowa Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 25 W State St., Mason City, IA 50401, Charter #65238.

21. Plaintiff Citizens Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 2012 1st Ave. S, Fort Dodge, IA 50501, Charter #66592.

22. Plaintiff Collins Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1005 Blairs Ferry Road NE, Cedar Rapids, IA 52402, Charter #62969.

23. Plaintiff Community 1st Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1100 Hutchinson Ave., Ottumwa, IA 52501, Charter #68510.

24. Plaintiff Community Choice Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 6163 NW 86th St., Johnston, IA 50131, Charter #65078.

25. Plaintiff Des Moines Fire Department Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1330 Mulberry St., Des Moines, IA 50309, Charter #64943.

26. Plaintiff Des Moines Metro Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 100 University Ave., Des Moines, IA 50314, Charter #64380.

27. Plaintiff Dubuque Postal Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1155 Loras Blvd., Dubuque, IA 52001, Charter #64917.

28. Plaintiff Dupaco Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1000 Jackson St., Dubuque, IA 52001, Charter # 64049.

29. Plaintiff Du Pont Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 801 35th St., Suite A, Fort Madison, IA 52627, Charter #62429.

30. Plaintiff Du Trac Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 3465 Asbury Rd., Dubuque, IA 52002, Charter #64471.

31. Plaintiff Family Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1211 N. Grand Ave., Charles City, IA 50616, Charter #64067.

32. Plaintiff Financial Plus Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1831 25th St., West Des Moines, IA 50266, Charter #62965.

33. Plaintiff First Class Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 2051 Westown Parkway, West Des Moines, IA 50265, Charter #64231.

34. Plaintiff First Federal Credit Union is a federally chartered credit union with its principal place of business at 1035 N Center Point Drive, Hiawatha, IA 52233, Charter #24673.

35. Plaintiff Fort Dodge Family Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 407 2nd Ave., Fort Dodge, IA 50501, Charter #63159.

36. Plaintiff Gas and Electric Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1602 Monroe Ave., Mason City, IA 50401, Charter #65040.

37. Plaintiff Greater Iowa Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1509 Baltimore Dr., Ames, IA 50010, Charter #64203.

38. Plaintiff GreenState Credit Union, f/k/a U of I Community Credit Union and Best of Iowa Community Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 2355 Landon Rd., North Liberty, IA 52317, Charter #60269.

39. Plaintiff Industrial Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1513 S 18th St., Centerville, IA 52544, Charter #65242.

40. Plaintiff Iowa Heartland Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1602 S Monroe Ave., Mason City, IA 50401, Charter #60718.

41. Plaintiff Journey Credit Union, f/k/a Tradesmen Community Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 1400 2nd Ave., Des Moines, IA 50314, Charter #64361.

42. Plaintiff Lennox Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1004 E Main St., Marshalltown, IA 50158, Charter #64234.

43. Plaintiff Linn Area Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 3015 Blairs Ferry Rd. NE, Cedar Rapids, IA 52402, Charter #63602.

44. Plaintiff Members Community Credit Union, f/k/a HON Industries Community Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 159 Colorado St., Muscatine, IA 52761, Charter #62683.

45. Plaintiff MEMBERS1st Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 910 S 12th Ave., Marshalltown, IA 50158, Charter #62918.

46. Plaintiff Meridian Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1206 N Jefferson St., Ottumwa, IA 52501, Charter #64212.

47. Plaintiff Metco Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 115 8th Ave. SW, Cedar Rapids, IA 52404, Charter #60013.

48. Plaintiff Midland Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 2891 106th St., Urbandale, IA 50322, Charter #61918.

49. Plaintiff Midwest Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1909 Old South Palmetto St., Sioux City, IA 51106.

50. Plaintiff N.G.P.L. Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 510 Carpenter St., Saint Charles, IA 50240, Charter #64351.

51. Plaintiff North Iowa Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 640 S. Federal Ave., Mason City, IA 50401, Charter #64191.

52. Plaintiff North Star Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1207 N 2nd St., PO Box 556, Cherokee, IA 51012, Charter #62638.

53. Plaintiff North Western Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1411 W Broadway, Council Bluffs, IA 51501, Charter #64282.

54. Plaintiff Peoples Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 310 1st St., Webster City, IA 50595, Charter #64140.

55. Plaintiff Polk County Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 111 Court Ave., Suite 110, Des Moines, IA 50309, Charter #65039.

56. Plaintiff Premier Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 800 9th St., Des Moines, IA 50309, Charter #64271.

57. Plaintiff Public Employees Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 624 Franklin St., Waterloo, IA 50703, Charter #64390.

58. Plaintiff Quaker Oats Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 3535 Center Point Road NE, Cedar Rapids, IA 52402, Charter #64991.

59. Plaintiff River Community Credit Union, including former Muni-Employees Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 644 W 2nd St., Ottumwa, IA 52501, Charter #64986.

60. Plaintiff River Valley Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 2811 E 13th St., Ames, IA 50010, Charter #61664.

61. Plaintiff St. Athanasius Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1255 3rd St., Jessup, IA 50648, Charter #65136.

62. Plaintiff Serve Credit Union, f/k/a Des Moines Police Officers Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 423 E Court Ave., Des Moines, IA 50309, Charter #65150.

63. Plaintiff Sioux Valley Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1120 6th St., Sioux City, IA 51101, Charter #64417.

64. Plaintiff Teamsters Local #238 Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 5050 J St. SW, Cedar Rapids, IA 52404, Charter #65606.

65. Plaintiff Telco Triad Community Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1420 Tri View Ave., Sioux City, IA 51103, Charter #63218.

66. Plaintiff The Family Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1530 W 53rd St., Davenport, IA 52806, Charter #60728.

67. Plaintiff Town and Country Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1414 Chatburn Ave., Harlan, IA 51537, Charter #65168.

68. Plaintiff Unite Credit Union, f/k/a Uni Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 802 W 29th St., Cedar Falls, IA 50613, Charter #65071.

69. Plaintiff United Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1900 W Broadway, Council Bluffs, IA 51501, Charter #65557.

70. Plaintiff Veridian Credit Union, f/k/a John Deere Credit Union, including former Warren Credit Union, is a federally insured, Iowa chartered credit union with its principal place of business at 1827 Ansborough Ave., Waterloo, IA 50701, Charter #64418.

71. Plaintiff Waterloo Firemen's Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 425 E. 3rd St., Waterloo, IA 50703, Charter #65193.

72. Plaintiff Aegis Credit Union is a federally insured, Iowa chartered credit union with its principal place of business at 1200 N 2nd St., Clinton, IA 52732, Charter #65521.

73. Plaintiff Cobalt Credit Union, f/k/a SAC Federal Credit Union, is a federally chartered credit union with its principal place of business at 7148 Towne Center Parkway, Papillion, NE 68046, Charter #24917.

74. Plaintiff Marine Credit Union is a federally insured, Wisconsin chartered credit union with its principal place of business at 127 West Ave. N, La Crosse, WI 54601, Charter #66752.

75. Defendant NCUA, in its capacity as liquidating agent for U.S. Central Federal Credit Union ("U.S. Central") is an administrative agency of the United States of America. Pursuant to 12 U.S.C. § 1789(a)(2), the NCUA must "designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located." NCUA may be served via a copy of the summons and complaint to the United States attorney for the District of Kansas or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk or a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office, with a copy of each by registered or certified mail to the Attorney General of the United States and to the NCUA. Fed. R. Civ. P. (4)(i).

76. U.S. Central formerly operated as a corporate credit union with a principal place of business located 9701 Renner Boulevard, Lenexa, Kansas 66219.

JURISDICTION AND VENUE

77. This Court has jurisdiction over the subject matter under 28 U.S.C. § 1331, as this case involves questions of federal law, and over the NCUA pursuant to 12 U.S.C. § 1789(a)(2), which provides that “[a]ll suits of a civil nature at common law or in equity to which the [NCUA] shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy.”

78. Jurisdiction and venue are also proper in the District of Kansas under 12 U.S.C. § 1787(b)(6)(A)(ii) and 12 C.F.R. § 709.7 because the claims herein require judicial determinations of the NCUA’s allowance or disallowance of liquidation claims and the principal place of business of the liquidated entity was located in Lenexa, Kansas.

GENERAL ALLEGATIONS

A. The NCUA issued ICCCU a valid and approved Claim Receipt.

79. On October 1, 2010, the NCUA placed U.S. Central into liquidation and appointed itself the liquidating agent. ICCCU, an Iowa-organized corporate central credit union, was an MCA and PIC holder of U.S. Central at the time.

80. On October 5, 2010, the NCUA issued a Claim Receipt for Member Contributed Capital to ICCCU (the “Claim Receipt”). A true and correct copy of the Claim Receipt is attached hereto and incorporated herein by reference as Exhibit 1.

81. The Claim Receipt was mailed to 1500 NW 118th Street, Des Moines, IA 50325-8242, the then office of ICCCU. It provided, in relevant part:

Under normal circumstances, a member of USC is required to file a claim against the liquidation estate to recover its depleted capital on the basis of, for example, an “error in accounting estimation.” In recognition of credit unions’ concerns about the depletion of their capital, however, the NCUA Board has chosen to issue this “Claim Receipt for Member Contributed Capital” representing the value of your PIC and MCA balances as of November 30, 2008.

82. The Claim Receipt indicated ICCCU had a member Paid-in Capital (“PIC”) balance of \$1,000,000.00 and an MCA balance of \$3,260,220.78.

83. The Claim Receipt specifically states that “Upon final resolution of the USC liquidation estate, this Claim Receipt will enable you to share pro rata in the net proceeds, if any, to the extent of your PIC and MCA balances as of the record date. *No further action is required on your part to file or activate a liquidation claim.*” (Emphasis added).

84. The Claim Receipt does not expire or otherwise terminate and has never been withdrawn or revoked.

B. ICCCU subsequently dissolved.

85. On November 17, 2011, a special meeting was held in which a majority of the ICCCU members voted to voluntarily liquidate ICCCU. *See Iowa Code Annotated § 533.405(1).*

86. In accordance with Iowa law, the board of directors notified the Superintendent of the intent to dissolve. *See Iowa Code Annotated § 533.405(2)(b).*

87. In accordance with Iowa law, the board of directors notified the NCUA of their intent to dissolve ICCCU. *See Iowa Code Annotated § 533.405(2)(d).*

88. Pursuant to Iowa Code Annotated § 533.404(1)(d), after certain payments are made, members of record as of the date of the special meeting are entitled to distribution of the remaining assets in pro rata shares. The members of record as of that date, after taking into account certain mergers and name changes that have since occurred, are listed on Exhibit 2, which is incorporated herein by reference.

89. As part of its liquidation, ICCCU distributed its reserves and undivided earnings to its membership based on each member’s proportionate patronage or “usage” of ICCCU. Usage is determined from the interest paid by the members on borrowed money, specifically for the following products: shares, corporate certificates, CD Access, and loans. This method of

distribution was approved by the Iowa Division of Credit Unions as part of the ICCCU dissolution and was consistent with ICCCU board of director approved past dividend distributions to members.

90. Had ICCCU been in receipt of the funds underlying the Claim Receipt for Member Contributed Capital issued by U.S. Central's Liquidating Agent at the time of the ICCCU dissolution and liquidation, the U.S. Central proceeds would have been distributed to ICCCU members based on each member's proportion "usage" of ICCCU.

91. Pursuant to Iowa Code Annotated 533.405(6)(a)(1), "Upon such proof as is satisfactory to the superintendent that all of the following have occurred, the superintendent shall issue a certificate of dissolution: (1) Assets have been liquidated from which there is a reasonable expectance of realization. . . ."

92. On May 30, 2013, the Superintendent issued the certificate of dissolution for ICCCU. At the time, there was no indication or reasonable expectation that ICCCU would realize payment from the NCUA on the Claim Receipt. Indeed, the Claim Receipt was issued approximately two-and-a-half years prior; the Liquidating Agent only began paying claims more than 11 years after issuing the Claim Receipt.

93. Under Iowa Code Annotated 533.405(6)(c), "Upon the filing of a certificate of dissolution, the existence of the state credit union shall cease."

C. When ICCCU ceased to exist, its remaining assets became the Former Member Plaintiffs' property by operation of law, including the Claim Receipt.

94. It is hornbook law that all remaining assets of a dissolved corporation become property of the shareholders by operation of law after the expiration of the winding up period. *See e.g.*, 19 Am. Jur. 2d Corporations § 2468 ("The shareholders of a corporation, when its existence ceases, become vested with legal title to its property as tenants in common. . . ."); 16A Fletcher

Cyc. Corp. § 8144.40 (“Corporation continuance statutes do not supplant the equitable rule that shareholders succeed to the assets of a dissolved corporation and therefore they are entitled to maintain an action on that basis despite expiration of the corporation’s wind-up period.”); 19 C.J.S. Corporations § 950 (“In the context of corporate law, the general rule is that when a corporation is dissolved and its affairs wound up, such assets as remain, after the satisfaction and discharge of all liabilities and obligations, belong to the shareholders.”); 16A Fletcher Cyc. Corp. § 8224 (“After dissolution, the property of the corporation passes to the shareholders, subject to the payment of corporate debts.”); *see also Canadian Ace Brewing Co. v. Joseph Schlitz Brewing Co.*, 629 F.2d 1183, 1187 (1980) (citing to 16A W. Fletcher, *Cyclopedia of the Law of Private Corporations* § 8224 (1979 Rev. Vol. Richard P. Eickhoff) (applying Illinois law); *Carmichael v. Halstead Nursing Center, Ltd.*, 237 Kan. 495, 499-500 (1985); *Levy v. Liebling*, 238 F.2d 505, 507-508 (7th Cir. 1956) (applying Kentucky law).

95. Once a credit union ceases to exist, no formal method of transfer is necessary for the transfer of the credit union’s assets to its members, and transfer by operation of state law is not inconsistent with the policy or the purpose of the Federal Credit Union Act. *See, e.g., Sichertman v. Nat’l Credit Union Admin. Bd.*, 535 B.R. 196, 200 (N.D. Ohio 2015) (“The Federal Credit Union Act of 1934 is a comprehensive scheme designed to protect the interests of creditors of defunct federal credit unions.”) (cleaned up). Indeed, payment of the claim to the former members of ICCCU is protecting creditors of U.S. Central.

96. Thus, as an asset of ICCCU, the Claim Receipt passed by operation of law pro rata to each member of ICCCU without the necessity of a bill or sale or any other transfer documentation. As a matter of law, ICCCU’s Claim Receipt became the Former Member Plaintiffs’ property.

D. Alternatively, assuming *arguendo*, the Claim Receipt did not pass by operation of law to the Former Member Plaintiffs, the Claim Receipt Escheated under Iowa State law.

97. Federal law permits unpaid claims of members or creditors to pass via trust or to escheat under state law. 12 C.F.R. § 710.6 (d) (“Unclaimed share accounts, unpaid claims, and unpaid claims of members or creditors who failed to cash their final distribution checks shall be trusted or escheated in accordance with the laws of the state in which the member or creditor resides.”).

98. Because ICCCU resided in Iowa, the Claim Receipt either passed by operation of law to members or it became abandoned property under Chapter 556 of the Iowa Code Annotated. *See* Iowa Code Annotated § 556.1 *et seq.*

99. Chapter 556 defines “Financial organization” to include credit unions. Iowa Code Annotated § 556.1(4). “Property” means a fixed and certain interest in or right in an intangible that is issued by a governmental entity. Iowa Code Annotated § 556.1(12)(a). The Claim Receipt falls within this statutory definition.

100. Intangible property unclaimed by the owner within one year is presumed abandoned. Iowa Code Annotated § 556.6.

E. The NCUA wrongfully denied payment of ICCCU’s Claim Receipt and wrongfully denied Plaintiffs’ individual claims.

101. In April 2021, the NCUA authorized 100% reimbursement of MCA and 3% of PIC in the U.S. Central liquidation. Upon information and belief, the NCUA began making pro rata payments to holders of U.S. Central claim receipts.

102. Because the NCUA failed to pay ICCCU’s Claim Receipt or provide any notice that ICCCU’s pro rata payment would be withheld, the Former Member Plaintiffs only later became aware that the NCUA was paying claimants of U.S. Central.

103. On August 4, 2022, the Iowa Credit Union League (the “ICUL”), on behalf of Iowa credit unions who were members of ICCCU, sent a letter to the NCUA requesting payment of ICCCU’s pro rata share of distributions it was entitled to receive under the Claim Receipt. A true and correct copy of the letter is attached hereto as Exhibit 3 and is incorporated herein by reference.

104. The Liquidating Agent responded to the ICUL by letter dated August 23, 2022, stating, in part:

Recently, the Liquidating Agent of U.S. Central determined sufficient funds are available in the U.S. Central Asset Management Estate to make an interim distribution to its former capital account holders. Since ICCCU liquidated and ceased to exist in 2013, however, ICCCU is ineligible to receive a distribution. Because ICCCU no longer exists, there is no legal entity to which to pay any claim and thus there will be no distribution from the U.S. Central Asset Management Estate to ICCCU.

105. The August 23, 2022, letter additionally provided instructions for filing proofs of claim for the former members of ICCCU. The letter requested that claims be submitted by December 23, 2022.

106. The Former Member Plaintiffs each timely sent proofs of claim to the NCUA. True and correct copies of all available proofs of claim are attached hereto as Exhibit 4 and are incorporated herein by reference.

107. Included in Exhibit 4 is the proof of claim filed by the ICUL. The ICUL’s claim includes a December 14, 2022, letter from Matthew Oakley. In the letter, Oakley provided the legal basis why payments related to ICCCU’s Claim Receipt should either be paid to Former Member Plaintiffs directly, to the Superintendent of the Iowa Division of Credit Unions pursuant to Iowa Code § 533.502(2)(a), or to the Iowa State Treasurer pursuant to Iowa Code § 556.13 and 12 CFR § 710.6(d).

108. The Liquidating Agent denied each of the Former Member Plaintiffs' individual claims by letters dated April 4, 2023, in which he restated the NCUA's incorrect legal position that ICCCU was not eligible for payment because its corporate existence had previously ceased. In part, the letter provides:

On October 5, 2010, the Liquidating Agent issued a claim receipt to ICCCU—a member of USC—a copy of which is attached to your proof of claim. After USC's liquidation, the members of ICCU elected to voluntarily liquidate ICCU. On May 30, 2013, ICCU's charter was cancelled and a certification of completion of dissolution was filed.

“Upon the filing of a certificate of dissolution, the existence of the state credit union shall cease.” Iowa Code § 533.405(6)(c). ICCU's corporate existence therefore ended in 2013. The assertion in the letter attached to your proof of claim that “the property of ICCCU does not cease to be property of ICCCU” is beside the point; the issue is whether anyone presently has legal standing to enforce the claim (i.e., the property). Because ICCU no longer exists, neither ICCU nor your credit union may enforce any right to payment arising under ICCU's claim receipt. ICCU is the sole real party in interest to the claim receipt and had title to the claim receipt. You have provided no evidence that the claim receipt was distributed to you or to anyone in the course of ICCU's liquidation, or legal authority establishing that ICCU's claim receipt devolved to its shareholders as a matter of law. Because you lack standing to enforce ICCU's claim receipt, you also do not have any administrative appeal rights with respect to nonpayment of its claim receipt, even though you suggest as much in your letter....

Your letter references, as alternative options, payment to the Iowa Superintendent of Credit Unions pursuant to Iowa Code § 533.502(2)(a) or payment to the Iowa State Treasurer pursuant to Iowa Code § 556.13 or 12 C.F.R. § 710.6(d). Initially, like the shareholder of the former ICCU, neither state agency has legal standing to enforce any right to payment arising under ICCU's claim receipt. Although Iowa Code § 533.502(2)(a) permits the Superintendent to “collect amounts due the state credit union and conserve or protect its assets, property, and business [.]” with respect to a state chartered credit union that has been “taken over” by the Superintendent, nothing in that statute gives the Superintendent the authority to collect on behalf of dissolved credit unions that no longer exist under Iowa law. Similarly, neither Iowa Code § 556.13 nor 12 C.F.R. § 710.6(d) require escheatment of any payment to the Treasurer. At

the time of ICCU's voluntary dissolution, there was no right to payment on the claim receipt. Therefore, there was no escheatable property then. There is no escheatable interest now because ICCU has been dissolved and thus no debt is owed to it.

109. Under 12 U.S.C. § 1787(b)(5)(C)(ii), claims filed after the filing period may be considered by the liquidating agent if: "(I) the claimant did not receive notice of the appointment of the liquidating agent before such date; and (II) such claim is filed in time to permit payment of such claim."

110. The Former Member Plaintiffs did not receive notice of the appointment of the liquidating agent from the NCUA before the end of the filing period. The Former Member Plaintiffs had no knowledge of the publication of the creditor notice and were not informed of any date on which claims were to be submitted.

111. Because a valid Claim Receipt had already been issued, it would have been improper for any capital holders of ICCCU, even had they been timely notified of the same, to assert individual and separate claims during the filing period because ICCCU was still in existence at that time.

112. This action is timely filed pursuant to 12 U.S.C. § 1787(b)(6)(A) and 12 C.F.R. § 709.7(c).

113. The Former Member Plaintiffs timely submitted their individual claims and ICCCU previously received its approved Claim Receipt from the NCUA prior to the waiver date. Plaintiffs have exhausted all required administrative remedies prior to filing this action, or alternatively, administrative remedies would be futile or inapplicable as a matter of law.

114. The Court's standard of review related to the NCUA's denial of claims is de novo. 12 C.F.R. § 709.7(a) provides that "A claimant may either request agency review of an initial determination of the liquidating agent to disallow a claim or seek a de novo judicial determination of claims."

COUNT I

**Judicial Determination Ordering Payment of
ICCCU's Allowed Claim to Former Member Plaintiffs**

115. Plaintiffs incorporate the allegations in paragraphs 1 through 114 as if fully set forth herein.

116. Under 12 U.S.C. § 1787(b)(5)(B), “The liquidating agent shall allow any claim received on or before the date specified in the notice published under the paragraph (3)(B)(i) by the liquidating agent from any claimant which is proved to the satisfaction of the liquidating agent.”

117. Under 12 U.S.C. § 1787(b)(11)(B), “In any case in which funds remain after all accountholders, creditors, other claimants, and administrative expenses are paid, *the liquidating agent shall distribute such funds to the credit union's shareholders or members...*” (emphasis added).

118. The Claim Receipt specifically states that “Upon final resolution of the USC liquidation estate, this Claim Receipt will enable you to share pro rata in the net proceeds, if any, to the extent of your PIC and MCA balances as of the record date. No further action is required on your part to file or activate a liquidation claim.”

119. The Claim Receipt does not expire or otherwise terminate and has not been withdrawn or revoked.

120. Although ICCCU dissolved and has ceased to exist under the Iowa Credit Union Act, its assets, including the Claim Receipt and the right to payment thereon, passed by operation of law to the Former Member Plaintiffs. The assets of a dissolved entity must pass and legally are not extinguished as suggested by the NCUA. *See e.g., Canadian Ace Brewing Co. v. Joseph Schlitz Brewing Co.*, 629 F.2d 1183, 1187 (1980) (citing to 16A W. Fletcher, *Cyclopedia of the Law of Private Corporations* § 8224 (1979 Rev. Vol. Richard P. Eickhoff) (applying Illinois law); *Carmichael v. Halstead Nursing Center, Ltd.*, 237 Kan. 495, 499-500 (1985); *Levy v. Liebling*, 238 F.2d 505, 507-508 (7th Cir. 1956) (applying Kentucky

law). This is consistent with the regulations that apply to the NCUA. *See, e.g.*, 12 U.S.C. § 1787(b)(11)(B) (“In any case in which funds remain after all accountholders, creditors, other claimants, and administrative expenses are paid, the liquidating agent shall distribute such funds to the credit union's shareholders or members...”).

121. Each of the Former Member Plaintiff’s ownership percentages in ICCCU were provided to the NCUA and supported by affidavit. The NCUA had sufficient information to assist in determining to whom and in what amount payments should have been made. Payment of the Claim Receipt should be made because the NCUA has already authorized 100% reimbursement of MCA and 3% of PIC in the U.S. Central liquidation.

122. Accordingly, the Claim Receipt is a proven claim and/or a valid obligation that the NCUA, as liquidating agent, must pay in accordance with the prescriptions and limitations set forth in the controlling statutes and regulations. In other words, any pro rata payments owed on account of the Claim Receipt must be paid directly to the Former Member Plaintiffs as the former capital members of ICCCU.

COUNT II

Judicial Determination Allowing Claims of Former Member Plaintiffs

123. Plaintiffs incorporate the allegations in paragraphs 1 through 122 as if fully set forth herein.

124. Should the Court determine that the Former Member Plaintiffs are not entitled to payment based on the Claim Receipt issued to ICCCU, Plaintiffs respectfully seek allowance of their individual claims in the alternative.

125. 12 U.S.C. § 1787(b)(5)(C)(ii) provides that claims filed after the waiver date may be considered by the NCUA if: “(I) the claimant did not receive notice of the appointment of the liquidating agent before such date; and (II) such claim is filed in time to permit payment of such claim.”

126. Because a valid Claim Receipt had already been issued to ICCCU, it would have been improper for any Former Member Plaintiffs, even had they been timely notified of the same, to assert individual and separate claims during the waiver period because ICCCU was still in existence.

127. The Former Member Plaintiffs did not receive notice of the appointment of the liquidating agent from the NCUA before the waiver date. Former Member Plaintiffs had no knowledge of the publication of the creditor notice and were not informed of any date on which claims were to be submitted.

128. The Former Member Plaintiffs timely submitted individual claims requesting payment of ICCCU's distribution in accordance with each Former Member Plaintiff's pro rata share of ICCCU. The NCUA had sufficient information to approve and pay the claims and any failure to do so was arbitrary, capricious, and an abuse of any discretion the NCUA may have had. The Claim Receipt passed by operation of law to the Former Member Plaintiffs. The Former Member Plaintiffs' individual claims were filed in time to permit payment of such claims.

129. The NCUA sent each Former Member Plaintiff a letter disallowing the claims even though the claims were timely filed and contained sufficient information to satisfactorily prove the claims.

130. Upon information and belief, the NCUA has distributed funds to other similarly situated claimants, and funds remain for distribution to the Former Member Plaintiffs.

131. This action is timely filed pursuant to 12 U.S.C. § 1787(b)(6)(A)(ii) and 12 C.F.R. § 709.7(c).

132. Based on the information submitted, the NCUA has wrongfully denied the Former Member Plaintiff's individual claims. Accordingly, the Court should review the claims de novo and order that each of the claims are approved for payment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the Court to enter judgment in their favor and against the NCUA as follows:

A. For a judicial determination that the Claim Receipt is an allowed claim for which funds shall be paid by the NCUA directly to the Former Member Plaintiffs in the respective percentage of their prior ownership interest in ICCCU.

B. Alternatively, for a judicial determination that the Former Member Plaintiffs' individual claims are allowed claims for which funds shall be paid by the NCUA directly to Plaintiffs in the respective percentage of their prior ownership interest in ICCCU.

C. Alternatively, for a judicial determination that the Claim Receipt is held in constructive trust for the benefit of the Former Member Plaintiffs and that such trust be distributed to the Former Member Plaintiffs in the respective percentage of their prior ownership interest in ICCCU.

D. Alternatively, for a judicial determination that the Claim Receipt be paid to the Iowa State Treasurer pursuant to Iowa Code Annotated § 556.13 and 12 CFR § 710.6(d) and any other applicable statutes or regulations.

E. For a judicial determination for any other issues raised herein and for such additional relief that the Court deems just, fair, and equitable.

DESIGNATION OF PLACE OF TRIAL

Plaintiffs hereby designates the place of trial in the above action to be Kansas City, Kansas.

Respectfully submitted,

FOULSTON SIEFKIN LLP

By: /s/ Matthew D. Stromberg

Matthew D. Stromberg, KS #23710
7500 College Boulevard, Suite 1400
Overland Park, Kansas 66210
T (913) 498-2100 | F (913) 498-2101
mstromberg@foulston.com

-and-

Jake G. Holly, KS #28437
FOULSTON SIEFKIN LLP
822 S. Kansas Avenue, Suite 200
Topeka, Kansas 66612
T (785) 233-3600 | F (785) 233-1610
jholly@foulston.com

-and-

Shannon D. Wead, KS #18301
FOULSTON SIEFKIN LLP
1551 N. Waterfront Parkway, Suite 100
Wichita, Kansas 67206
T (316) 267-6371 | F (316) 267-6345
swead@foulston.com