

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL & PROFESSIONAL REGULATION
DIVISION OF FINANCIAL INSTITUTIONS

In the Matter of)
)
)
Elgin City Employees Credit Union) 10CU101

To: Cecil Smith, Board Chairman
Elgin City Employees Credit Union
1151 Lillian Street
Elgin, Illinois 60123

CEASE AND DESIST ORDER

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, DIVISION OF FINANCIAL INSTITUTIONS ("DFI"), having conducted an examination as of March 31, 2010 of the activities of Elgin City Employees Credit Union ("Credit Union") concurrently with AMERICAN SHARE INSURANCE, pursuant to the authority of the Illinois Credit Union Act ("Act"), 205 ILCS 305/1 to /72, hereby issues this Cease and Desist Order ("Order") for violations of the Act and the Illinois Administrative Code 38 Ill. Admin. 190.2 to 190.610 ("Code").

STATUTORY PROVISIONS

1. Section 1.1 of the Act states, in part:

The term 'credit union' means a cooperative, non-profit association, incorporated under this Act, under the laws of the United States of America or under the laws of another state, for the purposes of encouraging thrift among its members, creating a source of credit at a reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions.

2. Section 8 of the Act states, in part:

The Director, in executing the powers and discharging the duties vested by law in the Department has the following powers and duties . . . (4) To issue cease and desist orders when in the opinion of the Director, a credit union is engaged or has engaged, or the Director has reasonable cause to believe the credit union is about to engage, in an unsafe or unsound practice, or is violating or has violated or the Director has reasonable cause to believe is about to violate a law, rule or regulation or any condition imposed in writing by the Department.

3. Section 46(4) of the Act states, in part:

Notwithstanding any other provisions of this Act, a credit union authorized under this Act to make loans secured by an interest or equity in real property may engage in making revolving credit loans secured by mortgages or deeds of trust on such real property or by security assignments of beneficial interests

in land trusts. . . . [A]ny mortgage or deed of trust given to secure a revolving credit loan may, and when so expressed therein shall, secure not only the existing indebtedness but also such future advances, whether such advances are obligatory or to be made at the option of the lender, or otherwise, as are made within twenty years from the date thereof, to the same extent as if such future advances were made on the date of the execution of such mortgage or deed of trust. . . . [T]he lien of such mortgage or deed of trust, as to third persons without actual notice thereof, shall be valid as to all such indebtedness and future advances from [sic] the time of said mortgage or deed of trust is filed for record in the office of the Recorder of Deeds or the Registrar of Titles of the county where the real property described therein is located. . . . [T]he total amount of indebtedness that may be so secured may increase or decrease from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum principal amount which must be specified in such mortgage or deed of trust, plus interest thereon. . . .

4. Section 48 of the Act states, in part:

Within any limitations set forth in the bylaws of the credit union, the Board of Directors may place a limit upon the aggregate amount to be loaned to or cosigned for by any one member. Such loan limits shall be subject to rules and regulations promulgated by the Director.

5. Section 190.30(a) of the Code states:

The Director shall issue a cease and desist order to any credit union which either willfully violates or the Director has reasonable cause to believe is about to violate the Act or rules or any condition imposed in writing by the Division or commits random violations which jeopardize the safety and soundness of the credit union. Such Order shall be sent to the Chairman of the credit union by certified mail with a copy to each member of the Board of Directors.

6. Based on the Credit Union's current asset size, Section 190.160 of the Code limits aggregate unsecured loans, including credit cards, to one member to no more than \$20,000.

7. Section 190.70(c) of the Code states:

Loans delinquent more than 60 days, bankruptcy and loans that exhibit deficiencies that impair their full collectability shall be classified as either substandard, doubtful or loss.

8. Section 190.140(g)(1) of the Code states:

All loans secured by a lien on real estate shall be made based upon prudent written lending policies and sound lending practices as documented in each member's loan file. Unless waived by the Director, lending policies shall include, without limitation, acceptable debt-to-income and loan-to-value ratios that will be considered the types of real estate security that will be accepted and any other prudent data considered necessary to determine the appropriateness of a loan request. All applicable Illinois and Federal statutes shall be observed.

9. Section 190.160(d) of the Code states, in part:

All loans are to be granted based upon prudent lending practice and procedure and in accordance with written lending policies and procedures prescribed by the Board of Directors.

10. Section 190.165(e) of the Code states:

Business loans shall not be granted by credit unions with assets of \$30 million or less unless the Division has approved a credit union's request for a business loan amendment to its bylaws. The request must be accompanied with specific lending policies including but not limited to the criteria listed in subsection (d). All approval of requests shall be based upon the history of the credit union, current financial condition and the adequacy of applicable operating policies as documented in the Division's statutory or special examination. Evaluation of the history, current financial condition, and operating policies of the credit union will include, but not be limited to, the credit union's capital adequacy, asset quality, management policies, earnings, and liquidity. These factors must be reflective of a safe and sound financial operation (in accordance with 205 ILCS 305/8, 9, 36 and 61).

FACTUAL FINDINGS

11. The Credit Union is an Illinois state chartered credit union located at 1151 Lillian Street, Elgin, Illinois with Charter Number 81092.
12. The Credit Union has been disbursing new funds on existing loans (add-ons) without prudent updating of borrower or collateral analyses. In addition, many of these loan add-ons are not documented in the loan file and have been performed without proper approval. *See Exhibit "A"* attached hereto and made a part of this Order.
13. The Credit Union is routinely violating many provisions of its Loan Extensions and Modification Policy. *See Exhibit "A"*.
14. Home Equity Lines of Credit limits were increased without prudent borrower or collateral analyses that support the higher limits. In addition mortgages or deeds of trust were not properly recorded in the recorder of deeds offices to secure the higher credit limits. *See Exhibit "A"*.
15. Numerous borrowers have unsecured loans with the Credit Union that in aggregate exceed the Loan Policy and regulatory limits of \$20,000. *See Exhibit "A"*.
16. The Credit Union made business loans to a self-employed member. *See Exhibit "A"*.
17. Collection problem loans are not being properly disclosed and classified by the Credit Union. *See Exhibit "A"*.
18. Employees were found to be violating the Internal Control Policy that prohibits conducting transactions on their own accounts or on accounts of persons living within the same household as the employee.

19. The Credit Union accepted a significant concentration in deposits of over \$3 million from one sponsor-related entity and offered significantly above market interest rates for these deposits. Because the Credit Union's reinvestment of these funds is returning a much lower rate of interest, this transaction is exacerbating the net losses incurred in 2009 and 2010, lowering the Credit Union's net capital ratio, and creating a liquidity problem.

LEGAL FINDINGS

20. The Credit Union violated Sections 46(4) and 48 of the Act and Sections 190.70, 190.140, 190.160 and 190.165 of the Code.

NOW IT IS HEREBY ORDERED:

1. The Credit Union shall immediately **CEASE AND DESIST** all lending practices until the Loan Policy (including the Loan Extensions and Modification Policy), Home Equity Loan Policy, and the Delinquent Loan and Collection Policy and all related procedures are significantly revised and enhanced to ensure that each request for or disbursement of loan funds is accompanied by documentation sufficient to support each decision. These modifications must include procedures to evaluate add-ons to existing loans that are consistent with the procedures for new loan underwriting. Comprehensive evaluations of borrower credit worthiness and collateral value must be completed for each new loan or add-on. All modified policies shall be provided to the Director for review and approval. Therefore, no new loans shall be granted and no additional funds shall be disbursed on any existing loans until the Director has approved the modified policies in writing.
2. In no event shall additional unsecured funds be disbursed to any member with aggregate unsecured loan balances that exceed \$20,000. Additionally, any unsecured loan with a maximum open-ended credit limit above \$20,000 shall have its limit immediately reduced to comply with Section 190.160 of the Code.
3. The Credit Union shall complete a thorough review of the loan portfolio to identify all members whose aggregate unsecured balances, including credit cards, exceeds \$20,000. These members' loans shall be tracked and monitored on a monthly basis and the related tracking report shall be included in each month's board minutes.
4. Once the revised lending policies and procedures have been approved by the Director, the Credit Committee shall ensure that every new loan approved and every add-on to an existing loan is in full compliance with the provisions of the revised policies. There shall be no exceptions granted.
5. No employee shall process any transaction(s) on his or her own account or on any account(s) of any immediate family member(s). This includes any deposits, withdrawals, loan disbursements or fee reversals. If necessary, the Internal Control Policy shall immediately be revised to reflect these requirements. Any employee who violates this policy in the future shall be subject to termination by the Board of Directors.
6. The Credit Union shall ensure that each Fire Pension certificate of deposit is withdrawn on its next maturity date. The Credit Union shall further ensure that there is sufficient liquidity available to fund each Fire Pension CD withdrawal, and that liquidity remains in compliance with the Act, the Code and ASI's Primary Insurance Policy throughout the term of this Order.

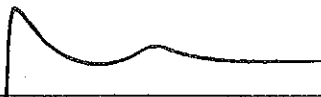
7. A report detailing the findings from the most recent IDFPR/ASI joint examination will be provided in the near future. The Credit Union shall comply with all directives outlined within that report.
8. The Credit Union shall immediately engage an independent accountant, acceptable to the Director and different than the CPA used to complete the 2009 annual audit, to complete a comprehensive loan and share account verification. This verification should be completed as of September 30, 2010, or a later date if possible, and should include positive confirmation of larger balance loan and share accounts, delinquent loan accounts, loan accounts where accrued interest is more than two times the scheduled monthly payment amount, and any other share and loan requiring positive verification as mandated by Section 190.130 of the Code. A copy of the engagement proposal for this verification shall be provided to the Director for advanced approval, and a copy of the completed verification shall be provided directly from the new CPA to the Director for review.
9. All documentation that the Credit Union is required to provide to the Director pursuant to the provisions of this Order shall also be provided to American Share Insurance.

Pursuant to Section 190.30(a) of the Illinois Administrative Code (“Code”), this Order shall be sent to the Chairman of the credit union by certified mail with a copy to each member of the Board of Directors.

Pursuant to Section 190.30(d) of the Code, this Cease and Desist Order shall become effective upon receipt by the Credit Union and shall remain effective until it is terminated by action of the Director or a reviewing court. Delivery to the United States Postal Service shall be presumed to constitute delivery to the Credit Union.

Pursuant to Section 190.30(b) of the Code, the Credit Union may request, in writing, a hearing on the Order within 10 days of the date of receipt.

Dated this 4th day of June 2010



Robert E. Meza, Director
Division of Financial Institutions