

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION
DIVISION OF FINANCIAL INSTITUTIONS**



IN RE:

LUCY MONTEJO

Admin. Proceeding No. 0293a-B-5/06

Respondent.

_____ /

**DEFAULT ORDER OF REMOVAL AND PROHIBITION
WITH NOTICE OF RIGHTS**

This matter having come before the Office of Financial Regulation (hereinafter "OFR" or "Office") upon its review and consideration of reports by state credit union examiners, law enforcement officers, employees and agents of Lee County Postal Employees Credit Union ("Credit Union") and other satisfactory evidence made available to the Office regarding the unsafe and unsound practices, prohibited acts and practices, and willful violations of the laws relating to financial institutions undertaken by Lucy Montejo ("Montejo"), and the Office being otherwise fully advised in this matter, finds and declares the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On March 10, 2009, the Office issued an Administrative Complaint for Order of Removal and Prohibition with Notice of Rights against Montejo. See attached Exhibit 1, which is hereby incorporated by reference as if set forth in its entirety.
2. Service to Montejo at 3922 Country Club Boulevard, Cape Coral, Florida, 33904, her last known address furnished by the Credit Union, was attempted by Certified U.S. Mail, Delivery to Addressee Only, Return Receipt Requested per Section 655.031(2), Florida Statutes.

3. On March 15, 2009, the Complaint addressed to Montejo was returned to the Office by the U.S. Postal Service marked "REFUSED."
4. Upon receipt of the refused Complaint, the Office enlisted the assistance of Investigator Robert Tamras of OFR's Ft Myers field office to effect personal service.
5. Investigator Tamras received the Complaint on March 24, 2009. Between March 24, 2009 and April 23, 2009 he tried numerous times without success to serve the complaint at the Country Club Boulevard address.
6. Using investigative tools such as the Florida Driver and Vehicle Database (DAVID), Investigator Tamras confirmed the Country Club Boulevard address as the address of record for Montejo and her immediate family. He found no other addresses listed for them. See Exhibit 2, Investigator Tamras' Affidavit of Service, which is hereby incorporated by reference as if set forth in its entirety.
7. He called the telephone number associated with the Country Club Boulevard address numerous times and left messages for the residents.
8. Return of the Complaint marked "REFUSED" combined with the failure of Montejo or a member of her family to return Investigator Tamras' telephone calls, and the absence of any other addresses on official listings are evidence that Montejo is avoiding service of process.
9. Refusal of service of process by mail and the apparent avoidance of personal service relieves the Office from further compliance with service of process requirements and allows the Office to enter an Order of Removal and Prohibition

by default. *See Cortez Development Company v. New York Capital Group, Inc.*, 401 So. 2d 1163, 1165 (Fla. 3rd DCA 1981).

10. The Findings of Facts enumerated in the Administrative Complaint, including Montejo's signed admission to taking cash paid by customers or debited from customer accounts for fees due the Credit Union for her own personal use, being uncontested by Montejo, are therefore accepted as true and correct, and are adopted by the Office as findings of fact for this Default Final Order, and are incorporated by reference as if fully set forth in this Default Final Order.
11. As Montejo has failed to file a petition for hearing within twenty-one (21) days of the Administrative Complaint, Montejo has waived her right to a hearing pursuant to Rule 28-106.111(4), Florida Administrative Code.
12. The Conclusions of Law as contained in the Administrative Complaint, finding that Montejo engaged in unsafe and unsound practices, prohibited acts and practices, and willful violations of the law relating to financial institutions, are hereby incorporated by reference as if fully set forth in this Default Final Order, and being uncontested by Montejo, are accepted as true and correct and are adopted by the Office as conclusions of law for this Default Final Order.

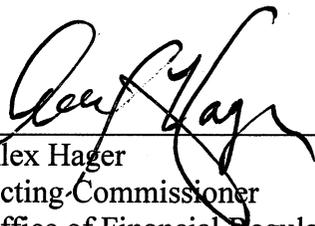
DEFAULT FINAL ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is HEREBY ORDERED that Montejo is:

1. Removed from any position she holds at any state financial institution,

2. Prohibited from participating in the affairs of any state financial institution without prior, express written consent of the Office per Section 655.037(7), Florida Statutes; and
3. Prohibited from serving as an officer, director, committee member, or employee of, or other person participating in the conduct of the affairs of, any financial institution in this state without the prior, express written consent of the Office in accordance with Section 655.037(7), Florida Statutes.

DONE AND ORDERED this 20th day of May, 2009 in Tallahassee, Leon County, Florida.



Alex Hager
Acting Commissioner
Office of Financial Regulation

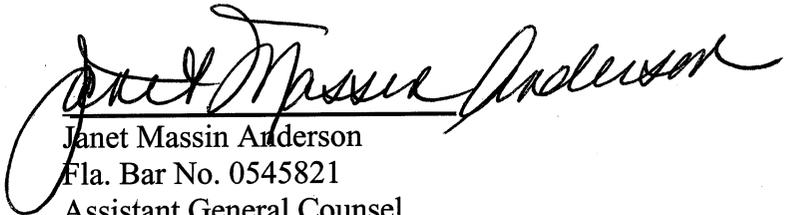
NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE

AGENCY CLERK FOR THE OFFICE OF FINANCIAL REGULATION, SUITE 526,
THE FLETCHER BUILDING, 200 E. GAINES STREET, TALLAHASSEE, FLORIDA
32399-0379, AND A COPY, ACCOMPANIED BY THE FILING FEES AS
REQUIRED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST
DISTRICT, 301 S. MARTIN LUTHER KING, JR., BOULEVARD, TALLAHASSEE,
FLORIDA 32399-1850, OR WITH THE DISTRICT COURT OF APPEAL IN THE
APPELLATE DISTRICT WHERE THE PARTY RESIDES. **THE NOTICE OF
APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE
ORDER TO BE REVIEWED.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Default Order
of Removal and Prohibition with Notice of Rights has been furnished via Certified U.S.
Mail, Delivery to Addressee Only, Return Receipt Requested, to Lucy Montejo, 3922
Country Club Blvd, Cape Coral, Florida 33904, and Sally Lee, President, Lee County
Postal Employees Credit Union, 2085 Bay Street, Fort Myers, Florida, 33901 this
20 day of May, 2009.



Janet Massin Anderson
Fla. Bar No. 0545821
Assistant General Counsel
Office of Financial Regulation
The Fletcher Building, Suite 526
200 East Gaines Street
Tallahassee, Florida 32399-0379
(850) 410-9896

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION
DIVISION OF FINANCIAL INSTITUTIONS**

IN RE:

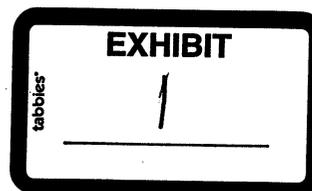
LUCY MONTEJO

Admin. Proceeding No. 0293a-B-5/06

Respondent.
_____ /

**ADMINISTRATIVE COMPLAINT FOR ORDER OF REMOVAL AND
PROHIBITION WITH NOTICE OF RIGHTS**

The State of Florida, Office of Financial Regulation, Division of Financial Institutions (hereinafter "Office"), gives notice that it, having reason to believe that Lucy Montejo (hereinafter "Montejo"), a former teller with the Lee County Postal Employees Credit Union ("Credit Union"), has engaged in unsafe and unsound practices, prohibited acts or practices, willful violations of laws relating to financial institutions, or acts that were a breach of trust or fiduciary duty, involved personal dishonesty from which she received financial gain, and from which the Credit Union suffered loss and other damage, files this Administrative Complaint for Order of Removal and Prohibition with Notice of Rights ("Administrative Complaint"), seeking to remove Montejo from any positions she holds at any state financial institution, and to bar Montejo from service as a financial institution affiliated party, an officer, director, committee member, employee, or other person participating in the affairs of, any state financial institution in this state, pursuant to Sections 655.012 and 655.037, Florida Statutes. In support thereof, the Office states the following:



STATEMENT OF FACTS

1. At all times material hereto, Lee County Postal Employees Credit Union was a state chartered credit union, charter number 40347, with its principal place of business at 2085 Bay Street, Fort Myers, Florida, 33901, and is a state financial institution, as the term is defined in Section 655.005(1)(h), Florida Statutes.
2. Pursuant to the Financial Institutions Codes, including Chapters 655 and 657, Florida Statutes, which encompass state-authorized or state-chartered financial institutions including credit unions, and the rules and regulations promulgated thereunder through Chapter 69U, Florida Administrative Code, Lee County Postal Employees Credit Union and its employees are subject to the jurisdiction of the Office of Financial Regulation.
3. During the period from February 11, 2002 through April 18, 2006, and at all times material hereto, Montejo was an officer, agent, or employee of the Credit Union, making her a financial institution-affiliated party as that term is defined in Section 655.005(1)(i), Florida Statutes.
4. During the period from February 11, 2002 through April 18, 2006, and at all times material hereto, Montejo was employed as a teller at the Credit Union.
5. Among her duties as a teller, Montejo was responsible for disbursing cash to members, accepting deposits and posting service fees such as overdraft fees to member accounts.
6. Over a period of two or more years (ending in April, 2006), Montejo debited member accounts for legitimate fees during the regular course of business.

7. During that period, Montejo wrongfully and without authorization performed transactions to post the fees to her teller cash drawer instead of the Credit Union's fee income account.
8. Montejo then wrongfully and without authorization created cash withdrawal documents using the names of Credit Union members to bring the teller cash drawer into balance.
9. Montejo then wrongfully and without authorization took the cash for her own personal use.
10. In April, 2006, Genice DeCorte, the president of the Credit Union at that time ("DeCorte"), became aware that some member accounts were being debited for fees but the corresponding amounts were not posted to the general ledger fee income account.
11. DeCorte enlisted the assistance of the Credit Union's outside accounting firm, Edwin W. Ewart, Jr. CPA, to investigate the matter.
12. The accounting firm sent Mike Ewart ("Ewart"), a certified fraud examiner, to the Credit Union.
13. During questioning from DeCorte and Ewart, Montejo admitted performing the acts specified in paragraphs 6 through 9 above, taking money from the Credit Union for two to three years.
14. Montejo signed a statement admitting her actions. See Attached Exhibit A.
15. Upon review of the Credit Union's books and records, Ewart determined that the total amount of fraudulent transactions was \$37,021 .

16. On or about April 18, 2006, DeCorte reported the matter to the Fort Myers Police Department.
17. On or about April 18, 2006, Montejo's employment with the Credit Union was terminated.
18. Montejo was arrested on April 18, 2006 on a charge of violating Section 812.014, Florida Statutes, Grand Theft of \$20,000 or more, but less than \$100,000, a second degree felony punishable by up to fifteen years in prison.
19. On June 8, 2006, the Office of the State Attorney for the Twentieth Judicial Circuit, in and for Lee County, filed an Information charging Montejo with Grand Theft.
20. On June 22, 2006, the Office filed an Emergency Order of Suspension and Prohibition with Notice of Rights ("Emergency Order") immediately suspending Montejo from serving as a financial institution-affiliated party and prohibiting her from participation in any manner in the affairs of the Credit Union and any other financial institution, subsidiary, or service corporation.
21. The Credit Union filed a bond claim with its insurer, CUNA Mutual Insurance for losses plus expenses.
22. The Credit Union froze an account owned by Montejo containing approximately \$12,000.
23. On or before January 30, 2009, Montejo paid or caused to be paid on her behalf \$23,112.67 to CUNA Mutual and agreed to authorize the Credit Union to release her deposited funds to CUNA Mutual to pay the restitution in full.

24. On January 30, 2009, upon being satisfied that Montejo had made restitution, the Office of the State Attorney dismissed the case by nolle prosequi.
25. Montejo's wrongful actions as described in paragraphs 6 through 9 above were made knowingly, willfully, and with the intent to deceive or defraud the Credit Union.

CONCLUSIONS OF LAW

26. Section 655.037(1)(a-d), Florida Statutes, authorizes the Office to issue a complaint when the Office has reason to believe a financial institution-affiliated party has engaged in conduct that is: "(a) An unsafe or unsound practice; (b) A prohibited act or practice; (c) A willful violation of any law relating to financial institutions; (d) A willful violation of any other law involving fraud or moral turpitude which constitutes a felony." § 655.037, Fla. Stat.
27. Section 655.0322, Florida Statutes, defines "prohibited acts and practices," establishes criminal penalties for violations thereof, and states in pertinent part:
- It is unlawful for any financial institution-affiliated party to:
- (a) Knowingly receive or possess himself or herself of any of its property otherwise than in payment of a just demand, and, with intent to deceive or defraud, to omit to make or cause to be made a full and true entry thereof in its books and accounts, or concur in omitting to make any material entry thereof;
 - (b) Embezzle, abstract, or misapply any money, property, or thing of value of the financial institution, subsidiary, or service corporation with intent to deceive or defraud such financial institution, subsidiary, or service corporation;
 - (d) Make any false entry in any book, report, or statement of such financial institution, subsidiary, or service corporation with intent to deceive or defraud such financial institution or another person, firm, or corporation, or with intent to deceive the office, any other appropriate federal regulatory agency, or any authorized representative appointed to

examine the affairs of such financial institution, subsidiary, or service corporation; or

Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s.775.082, s. 775.083, or s. 775.084.

§ 655.0322(3), Fla. Stat.

28. Montejo's actions as described in paragraphs 6 through 9 above are violations of Section 655.0322, Florida Statutes.

29. As set forth in Section 812.014(1)(b), Florida Statutes, a person commits a grand theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with the intent to, either temporarily or permanently appropriate the property to his or her own use or to the use of any person not entitled to use of the property.

30. Notwithstanding the actions of the Office of the State Attorney, for the Twentieth Judicial Circuit, Montejo's actions as described in paragraphs 6 through 9 above constitute grand theft in violation of Section 812.014(1)(b), Florida Statutes.

31. The Notice of Rights included with the Emergency Order specifically states:

Note that the acquittal of the financial institution-affiliated party charged, or the final unappealed dismissal of all charges against such person, will dissolve the Emergency Order, but will not prohibit the Office from instituting proceedings under 655.037(1), Florida Statutes. (emphasis added)

32. The Office, pursuant to Section 655.037(3), Florida Statutes, has determined that the violation of the Section 812.104, Florida Statutes, with which Montejo was charged was true as evidenced by her admission and the statement of facts as set forth above, she received financial gain as a result of the violation, and the violation involved personal dishonesty.

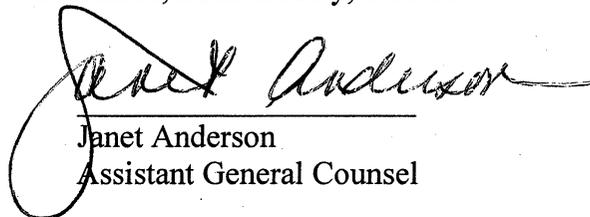
33. Additionally, the Office has determined that Montejo also violated Section 655.0322(3), Florida Statutes, as evidenced by her admission and the statement of facts set forth above, she received financial gain as a result of the violation, and the violation involved personal dishonesty.
34. The Office, therefore, seeks an Order for Removal and Prohibition.

AGENCY ACTION

Based on the foregoing Statement of Facts and Conclusions of Law, the Office intends to issue a final order to:

1. Remove Montejo from any position she holds at any state financial institution.
2. Prohibit Montejo from participating in the affairs of any state financial institution without prior, express written consent of the Office per Section 655.037(7), Florida Statutes; and
3. Prohibit Montejo from serving as an officer, director, committee member, or employee of, or other person participating in the conduct of the affairs of, any financial institution in this state without the prior, express written consent of the Office in accordance with Section 655.037(7), Florida Statutes.

Issued this 10 day of March 2009 in Tallahassee, Leon County, Florida.


Janet Anderson
Assistant General Counsel

NOTICE OF RIGHTS

NOTICE IS HEREBY GIVEN that you may request a hearing to be conducted in accordance with the provisions of Sections 120.569 and 120.57, Florida Statutes.

Requests for such a hearing must comply with the provisions of Rule 28-106.104(2), and

Rule 28-106.201 or Rule 28-106.301, Florida Administrative Code. Your request must be filed within twenty-one (21) days after the receipt of this Administrative Complaint and must be filed with:

Agency Clerk
Office of Financial Regulation
Legal Services Office
The Fletcher Building, Suite 526
200 East Gaines Street
Tallahassee, Florida 32399-0379
(850) 410-9896
Facsimile: (850) 410-9645

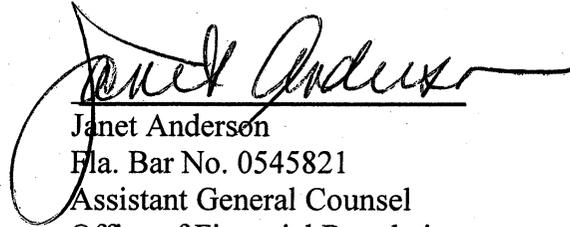
Failure to respond within twenty-one (21) days of receipt of this Administrative Complaint shall be deemed to be a waiver of all rights to a hearing, and a Final Order, will be entered without further notice. Should you request such a hearing, you will have the right to be represented by counsel or other qualified representative at your expense; to offer testimony, either written or oral; to call and cross-examine witnesses; and to have subpoenas and subpoenas duces tecum issued on your behalf.

Pursuant to Section 120.573, Florida Statutes, you are advised that mediation is not available.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Administrative Complaint for Order of Removal and Prohibition with Notice of Rights has been furnished via Certified U.S. Mail, Delivery to Addressee Only, return receipt, to

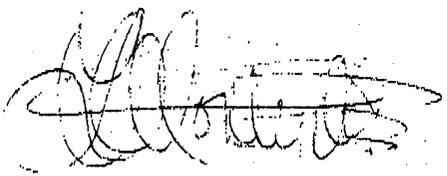
Lucy Montejo, 3922 Country Club Blvd, Cape Coral, Florida 33904, and Sally Lee,
President, Lee County Postal Employees Credit Union, 2085 Bay Street, Fort Myers,
Florida, 33901 this 11 day of March, 2009.

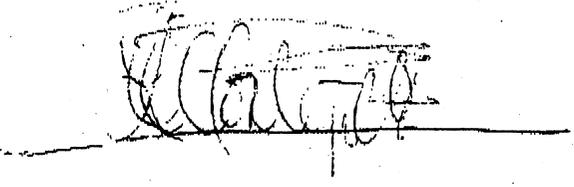


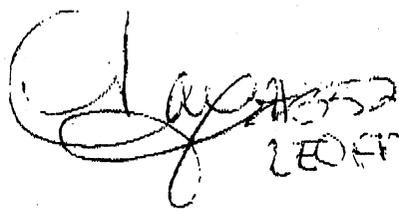
Janet Anderson
Fla. Bar No. 0545821
Assistant General Counsel
Office of Financial Regulation
The Fletcher Building, Suite 526
200 East Gaines Street
Tallahassee, Florida 32399-0379
(850) 410-9896

April 18, 2006

I, Huey Montejo, being on my own free will admit to taking funds that belonged to the Credit Union. I accept and admit the fact that it was wrong and am deeply sorry for what I, under extenuating circumstances, had to do. I wish that I would have never had to seek to this as an answer to solve personal issues. I plead, if at all possible, for an opportunity for restitution.


Huey Montejo




LEO FMPD

tabbles
EXHIBIT
A

**STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION**

IN RE:

LUCY MONTEJO

Administrative Proceeding
Number: 0293a-B-5/06

Respondent.

AFFIDAVIT OF SERVICE

STATE OF FLORIDA
COUNTY OF LEE

RECEIVED

APR 24 2009

LEGAL OFFICE

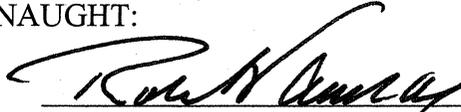
The undersigned, being duly sworn, states:

1. Affiant is a Financial Crimes Investigator for the office of Financial Regulations, Bureau of Financial Investigations.
2. Affiant received the process on March 24, 2009, at 10 A.M.
3. Affiant attempted personal Service by serving copies of "ADMINISTRATIVE COMPLAINT FOR ORDER OF REMOVAL AND PROHIBITION WITH NOTICE OF RIGHTS"; on Lucy Montejo, individually, at 3922 Country Club Boulevard, Cape Coral, Florida 33904 on March 24, 2009, at 5: 30 P.M.
4. Affiant contacted Montejo's attorney Alan Workman for possible contact information. Workman stated that he will get back with Affiant but never did.
5. Affiant left numerous messages to a telephone number (239-549-2094) that ties back to Montejo's address with no response.
6. Florida Driver And Vehicle Database (**DAVID**) and Accurint database both showed Montejo's address at 3922 Country Club Boulevard, Cape Coral, Florida 33904.
7. DAVID showed the address of 3922 Country Club Boulevard, Cape Coral, Florida 33904, for the registration of Montejo's 2006 Ford vehicle.
8. DAVID and Accurint database showed the address of 3922 Country Club Boulevard, Cape Coral, Florida 33904, for Montejo's parents, Andres and Noemi Montejo.
9. DAVID showed the address of 3922 Country Club Boulevard, Cape Coral, Florida 33904, for three (3) vehicles owned by the Montejos except for a Fort Myers PO Box for Andres Montejo on a 2000 Fort jointly owned by Andres and Noemi Montejo.
10. Lee County Property Appraisers Office showed Andres and Noemi Montejo as he owners of residence located at 3922 Country Club Boulevard, Cape Coral, Florida 33904.



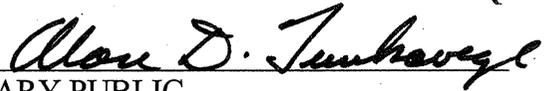
11. As of today, Affiant visited the address of 3922 Country Club Boulevard, Cape Coral, Florida 33904, over 20 times and no one appears to be living there.
12. Affiant saw a light on at the address of 3922 Country Club Boulevard, Cape Coral, Florida 33904, on April 12, 2009 around 9 P.M.
13. Affiant was unable to effect service after seeing the light on.
14. Affiant does not have any further leads for locating Montejo.

FURTHER AFFIANT SAYETH NAUGHT:



Robert Tamras

Sworn and subscribed before me this 23rd day of April, 2009
By Robert Tamras who is personally known to me.



NOTARY PUBLIC

