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**FOR IMMEDIATE RELEASE**

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## **Dade County Federal Credit Union Wins Lawsuit Against Credit Union Mutual Insurance Society**

**SOUTHFIELD, MI – October 24, 2011** In December of 2010, following Credit Union Mutual Insurance Society's (CUMIS) denial of its faithful performance claim for coverage under its bond, Dade County Federal Credit Union (DCFCU) filed suit in the United States District Court for the Southern District of Florida for breach of contract. In October of 2011 DCFCU's received a favorable ruling by the court that its claim was covered under the bond and a jury verdict in DCFCU's favor. On October 18, 2011 a judgment was entered in favor of DCFCU against CUMIS.

Prior to trial, Honorable Ursula Ungaro granted summary judgment in favor of DCFCU finding that CUMIS' interpretation of its own policy language was, at times, "unreasonable." CUMIS denied DCFCU faithful performance claim that named a Visa Collector as the principal/employee who failed to faithfully perform his trust. DCFCU asserted that its former employee acted in conscious disregard of established and enforced lending policies by concealing over 500 severely delinquent Visa accounts and failing to submit the accounts for charge-off. CUMIS disputed each element of coverage and further asserted that the loss incurred by DCFCU was not a loss resulting directly from the former employee's policy violations. Hon. Ungaro's Order on summary judgment found CUMIS to be incorrect on each and every one of its defenses.

The Court, prior to trial, concluded that any loss incurred by DCFCU was in fact covered under the bond. CUMIS initially denied coverage, in part, because the policy at issue was a collection policy and not lending policy. The Court observed that CUMIS does not define lending in its bond but that "lending" is premised upon an expectation of collection of the money lent and that "lending" encompassed the collection of money loaned. Therefore, the opinion clearly did not let CUMIS' denial stand simply because the policy at issue in the faithful performance bond claim was a collection policy.

The Court disagreed with CUMIS claim that policies were not enforced. The Court found that simply because some "red flags" were not detected was not evidence of lack of enforcement supporting denial of DCFCU's claim.

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In responding to CUMIS' defense that there was no connection between DCFCU's loss and the employee's disregard of the policy because DCFCU did not detect the employee's misconduct, the Court found CUMIS' interpretation of its bond to be "unreasonable." The Court stated "[i]f the 'resulting direct from' policy language meant that an insured's failure to detect and prevent loss resulting from employee misconduct precluded coverage, **then no insured would ever be entitled to coverage.**" [emphasis added].

A three day jury trial to determine damages concluded October 14, 2011 resulting in a verdict against CUMIS in the amount of \$348,000.00. Judgment against CUMIS was entered on October 18, 2011 in the amount of \$406,200.78.

DCFCU's lead trial attorney, Patricia Corkery of Holzman Corkery, PLLC applauded the Court's ruling on summary judgment in favor of the credit union. "By finding prior to trial that any loss incurred by the credit union was covered under the bond was vindication for the credit union in its two and a half year battle to have the claim paid. Prior to trial, CUMIS hired an attorney to "investigate" the claim so even prior to the litigation the credit union was forced to fight for coverage and retain legal counsel," she stated.

This litigation is the second major victory for a credit union client of Holzman Corkery, PLLC against a bond carrier. In 2009 Holzman Corkery represented Michigan First Credit Union and was co-counsel at the trial where the subject was another faithful performance bond claim CUMIS wrongfully denied. The Michigan First victory resulted in CUMIS having to pay over seven million dollars to Michigan First Credit Union. CUMIS' appeal of that verdict and judgment were unsuccessful.

**ABOUT HOLZMAN CORKERY**

Based in Southfield Michigan, Holzman Corkery, PLLC has been providing exceptional counseling and a full array of legal services to state and federally regulated financial institutions for over 40 years. The firm assists clients in formulating policies and programs to resolve current legal issues and avoid future legal issues. For more information, visit [www.holzmanlaw.com](http://www.holzmanlaw.com).

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