

KIRKLAND & ELLIS
PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

655 Fifteenth Street, N.W.
Washington, D.C. 20005

202 879-5000

Facsimile:
202 879-5200

Andrew B. Clubok
To Call Writer Directly:
(202) 879-5173
andrew_clubok@kirkland.com

March 29, 1999

AOR 1999-10

Federal Election Commission
Mr. N. Bradley Litchfield, Associate General Counsel
Office of General Counsel
999 E Street, NW
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAR 29 10 06 AM '99

Re: Request for Advisory Opinion Regarding Solicitation of Policyholders of a Mutual Insurance Company for Contributions to a Corporate Sponsored Political Action Committee

Dear Mr. Litchfield:

This supplements my February 25 request for the advisory opinion referenced above and responds to the additional questions you have posed.

First, I have enclosed copies of opinions from West Virginia, Ohio and Texas on the same issue. In each case, the respective state authority determined that Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company could solicit all of their policy holders (each of whom are members of the company), including those policyholder members who are also independent contractor agents.

Second, I am sending you copies of the Articles of Incorporation and By-laws for each company. As you can see from these documents, each policyholder is a member of these non-stock companies with all of the rights prescribed by Ohio law, including an equal vote on all matters of corporate governance.

Finally, I am also enclosing some additional background information about Nationwide's independent contractor agents that was prepared by officials at Nationwide. As we discussed in our conversation, these agents may or may not be policyholders. If they are policyholders, then they have equal rights as members of the company, just as any other policyholder might have. It is this subset of member policyholders that Nationwide wishes to solicit for contributions to its federal separate segregated fund. Of course, our interpretation of

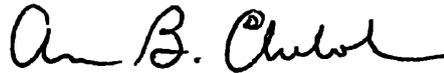
KIRKLAND & ELLIS

**Federal Election Commission
March 26, 1999
Page 2**

the rules would apply to any of Nationwide's policyholders, but at this time we are only concerned with soliciting independent contractor agents for voluntary contributions. The opinion from Ohio's secretary of state deals specifically with this issue, and confirms that independent contractor agents who are policyholder members, like all other policyholder members, may be solicited for political contributions to a political action committee.

Please let me know if I can provide further information or answer any additional questions you may have concerning this request. We greatly appreciate your careful consideration of this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Andrew B. Clubok".

Andrew B. Clubok

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREAROTTE
Executive Assistant

Telephone: (304) 558-6000
Copiers: (304) 558-6000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

August 13, 1993

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-6000

Randolph Cox
Spilman, Thomas, Battle & Klostermeyer
Suite 1200, United Center
P.O. Box 273
Charleston, WV 25321-0273

Dear Mr. Cox:

This is to confirm our recent telephone conversation concerning the permissibility of Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company forming a political action committee and soliciting contributions from their policy holders. My research and discussions with the Federal Election Commission have indicated that it would be permissible for the mutual insurance company to establish a political action committee and for the political action committee to solicit contributions from its member/policy holders for political purposes in West Virginia.

This position is based on the definition of "restricted group" established in 140-1-6.3 of the administrative regulations promulgated by the State Election Commission dealing with corporate political action committees. This definition includes members of incorporated associations or organizations or groups of persons... Based on the information you have provided to this office, we are dealing with a membership organization so it would be permissible for the organization to form a political action committee to solicit these individuals.

As I understand it, Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company don't have stockholders but instead have policy holders. Each policy holder is entitled to share in the profits of the business. I also understand that the policy holders have the ability to vote on issues the same as stockholders of corporations.

In view of the similarity between policy holders and stockholders and in view of the specific wording the administrative regulations that includes bona fide members of incorporated organizations, it would be permissible for Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company to solicit contributions from policy holders for their political action committee.

I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "William H. Harrington".

William H. Harrington
Chief of Staff



BOB TAFT
Secretary of State
State of Ohio

MAY 30 1991

May 20, 1991

Thomas W. Dietrich
Vice President
& Associate General Counsel
Office of General Counsel
Nationwide Insurance
1 Nationwide Plaza
Columbus, Ohio 43216

Dear Mr. Dietrich:

I am writing in response to your letter of May 9, 1991, in which you ask whether your mutual insurance company may organize a PAC under Ohio Revised Code Section 3517.08 2(B) and also whether you may limit solicitations to member policy holders who are also exclusive independent contract agents of your cooperation. It is the opinion of this office, that;

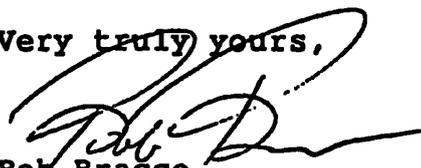
1.) Nothing in this section of the O.R.C. precludes a mutual insurance company organized as a non profit corporation from forming a PAC in the same manner as other Corporations.

2.) For a mutual insurance company in which the policyholders enjoy rights comparable with stockholders in other corporations such policy holders may be treated as stockholders for purposes of section 3517.08 2(B) and consequently may be solicited for contributions for the corporate PAC. This is true regardless of any other relationship which may exist between a non profit insurance company and their policyholder including that of an independent agent.

Further, nothing in the O.R.C. prohibits a corporation from limiting solicitation exclusively from any portion of the allowed possible contributors and therefore it is perfectly permissible under the code to limit solicitations to policyholders who are also exclusive independent agents. The primary test of whether policy holders of a mutual insurance company have the same status as that of shareholders in a corporation is whether they enjoy ownership rights and commensurate voting rights.

I hope this informal opinion is sufficient for your needs, but if you should desire a formal advisory opinion from the Ohio Elections Commission, please contact Mr. Roger Deal in this office.

Very truly yours,



Bob Bracco
Elections Counsel

2701A



TEXAS ETHICS COMMISSION

P. O. Box 12070, Capitol Station
Austin, Texas 78711-2070

Richard Slack
Chairman

John E. Clark
Vice Chair

Tom Harrison
Executive Director

Commissioners

Lem B. Allen
James Cribbs
Ernestine Glossbrenner
Jerome W. Johnson
Norman Lyons
Louis E. Starns

ETHICS ADVISORY OPINION NO. 367

April 11, 1997

Whether the policyholders of an Ohio domestic mutual insurance company are "members" of the insurance company for purposes of section 253.100(b) of the Texas Election Code. (AOR-404)

The Texas Ethics Commission has been asked to consider whether the policyholders of an Ohio domestic mutual insurance company are "members" of the insurance company for purposes of section 253.100(b) of the Texas Election Code.

The Texas Election Code contains a general prohibition on political expenditures by corporations in connection with state and local elections in Texas. Elec. Code § 253.094. See generally *id.* § 251.001(10) (defining "political expenditure"). An insurance company is considered to be a corporation and therefore subject to those restrictions regardless of whether the insurance company is organized as a corporation. *Id.* § 253.093(a). As an exception to the general prohibition on corporate political expenditures, section 253.100(b) provides that a corporation may make political expenditures to finance the solicitation of political contributions to a general-purpose committee assisted by the corporation from the stockholders of the corporation. For purposes of that provision, the "members" of an insurance company are considered to be stockholders. *Id.* § 253.093(b). In other words, Texas law expressly permits an insurance company to make political expenditures to solicit its "members" to contribute to a general-purpose political committee. The question raised here is whether the policyholders of an Ohio domestic mutual insurance company are "members" of the insurance company.

In Ethics Advisory Opinion No. 227 (1994), we considered whether the policyholders of a Texas farm mutual insurance company are "members" of the company for purposes of the Texas Election Code. We noted that the statutory provisions governing Texas farm mutual insurance companies vest control of such a company in the policyholders and describe the policyholders as "members." In light of those facts, we concluded that the policyholders of a Texas farm mutual

Come visit our home on the Internet @ <http://www.ethics.state.tx.us>

(512) 463-5800 • 1-800-325-8506 • FAX (512) 463-5777 • TDD 1-800-735-2989

insurance company are its "members" for purposes of the Texas Election Code. Like the policyholders of a Texas farm mutual insurance company, policyholders of an Ohio domestic mutual insurance company are referred to as "members." Ohio Rev. Code Ann. § 3941.07 (Baldwin 1995). Also, as in Texas, control of an Ohio domestic mutual insurance company is vested in its policyholders. We conclude, therefore, that the policyholders of an Ohio domestic mutual insurance company are its "members" for purposes of section 253.100(b) of the Election Code. Because its policyholders are its "members," an Ohio domestic mutual insurance company may make expenditures to solicit contributions from its policyholders to its Texas general-purpose political committee.

SUMMARY

An Ohio domestic mutual insurance company may make expenditures to solicit contributions from its policyholders to its Texas general-purpose political committee.

ARTICLES OF INCORPORATION
NATIONWIDE MUTUAL INSURANCE COMPANY

FIRST. The name of said corporation shall be Nationwide Mutual Insurance Company.

SECOND. Said corporation shall be located at Columbus, in Franklin County, Ohio, and its principal business there transacted.

THIRD. The company is formed for the purpose of transacting a general insurance and reinsurance business except life insurance in any of the kinds of insurance set forth in and as authorized by Section 3941.02 Revised Code of Ohio as it now exists or may hereafter be amended. Such insurance business shall be on the mutual plan and the corporation shall have all the powers necessary and incident to carrying on said insurance business upon said plan.

Effective September 1, 1955

NATIONWIDE MUTUAL INSURANCE COMPANY
AMENDED AND RESTATED CODE OF BY-LAWS
For the Government of the Members and
Board of Directors

ARTICLE I

Membership

Section 1. Members. Each policyholder of this company whose policy is in force shall be a member of this company.

Section 2. Rights of Members. Each member shall have such rights as are prescribed by the laws of the State of Ohio with respect to members of mutual insurance companies organized under Section 3941.02 of the Ohio Revised Code and the Articles of Incorporation, these By-Laws and the member's policy or policies of insurance in force.

Section 3. Membership Fee. The Board of Directors may provide for a membership fee.

Section 4. No Contingent Liability. In accordance with the provisions of the laws of the various jurisdictions in which the company operates, the policies of this company shall be non-assessable and members shall have no contingent liability with respect thereto.

Section 5. Termination of Membership. All rights of whatsoever kind or nature of members in this company shall terminate upon the member ceasing to have in force a policy of this company.

ARTICLE II

Meeting of Members

Section 1. Meetings in or Out of State. Any meetings of members may be held in or outside of the State of Ohio.

Section 2. Regular Annual Meeting. A regular annual meeting of the members shall be held at the home office of the company on the first Thursday of April of each year at 10:00 a.m. unless a different time or place is fixed by resolution of the Board of Directors, if not a legal holiday, but if a legal holiday then on the day following at the same time. If the

Board of Directors shall elect to change the time or place of such meeting, notice shall be given to each member as provided in Section 4 of this Article. If for any reason the regular annual meeting is not held as provided for in this section then the business to be transacted thereat may be transacted at any special meeting of members called as provided for in Section 3 of this Article.

Section 3. Special Meetings of Members. Special meetings of the members may be called by the Chairman of the Board, Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, a majority of the members of the Board of Directors acting with or without meeting, or upon the written request of members of the company who hold not less than $\frac{1}{2}$ of 1% of the number of policies in force as of the end of the calendar year preceding such written request. Upon request in writing by registered mail or delivered in person to the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President, by any person or persons entitled to call a meeting of the members, it shall be the duty of the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President or Secretary or Board of Directors forthwith to give notice to members as provided in Section 4 of this Article and if such notice to members as provided in Section 4 of this Article and if such notice shall not be so given then the person or persons making such request may give such notice to members. In the event of the death of all directors, a special meeting of the members may be called by any Executive Vice President, any Senior Vice President, the Secretary, or any Assistant Secretary of the company.

Section 4. Notice of Meetings of Members.

(a) Regular Annual Meeting and Special Meeting in Place Thereof. Notice of the regular annual meeting of members shall be given by printing the time and place thereof on each policy of the company. No other notice of such meeting shall be given except as required by this Section and by Section 2 of this Article. A written or printed notice specifying the time and place of a special meeting, called in place of the regular annual meeting where the Board of Directors has elected to change the time and place thereof as provided in Section 2 of this Article, shall be mailed to each member at such member's last known address as shown on the records of the company. Such notice shall be so mailed not less than 10 nor more than 45 days before the date fixed for the meeting and the members entitled to such notice shall be those with policies in force as of the day next preceding the day on which notice is given or, if a record date therefor is fixed

as provided by law of these By-Laws, of record on such date so fixed; provided, at least 30 days' notice of the meeting and the business to be transacted thereat shall be given by a majority of the Directors in a newspaper published and of general circulation in Franklin County, Ohio, in the event the Articles of Incorporation are proposed to be amended. In the event of the transfer of any policy after notice has been given and prior to the holding of the meeting, it shall not be necessary to serve notice upon the transferee of such policy. If any such meeting is adjourned to another time and place, no further notice as to such adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

(b) Other Special Meetings. Notice for special meetings, other than special meetings in place of regular annual meetings, shall specify the time, place, purpose or purposes thereof and no business other than that included in the notice shall be acted upon at such meeting, except with the consent of all of the members present and entitled to vote at the meeting in question. Thirty days' notice of such special meeting and the business to come before it shall be given by a majority of the Board of Directors in a newspaper published and of general circulation in Franklin County, Ohio.

Section 5. Waiver of Notice. Any member entitled to notice of any meeting of members may in person or by proxy, either before, at or after such meeting, waive notice in writing, which writing shall be filed with or entered upon the records of the meeting, of any or all of the provisions of law, the Articles of Incorporation or By-Laws as to notice of such meeting, including the time, place and purpose thereof or as to any irregularities in such notice or arising in connection therewith or with the giving thereof and shall thereby validate the proceedings at such meeting as fully as though all of the requirements waived had been duly met in their respective cases. The attendance of any member at any such meeting, in person or by proxy, without protesting the lack of a proper notice of such meeting shall be deemed to be a waiver of notice of such meeting.

Section 6. Quorum. Twenty (20) members present in person or by proxy and entitled to attend and vote at a meeting of members shall constitute a quorum for the transaction of business at that meeting but if at any regular or special meeting of the members or at any adjournment thereof such a quorum is not present, then a majority of the members present in person or by proxy and entitled to vote shall constitute a quorum for the purpose of adjourning the meeting until a

quorum competent to act upon any matter or proposal is present.

Section 7. Voting.

- (a) One Vote for Each Member. Each member shall have the right to cast one vote in person or by proxy on each proposal brought before any meeting of the members.

- (b) Voting by Corporation. Subject to the provisions of the Articles of Incorporation and Section 7(a) of this Article, the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President, Chairman of the Board of Directors, any Vice President, Secretary or Treasurer of any corporation holding shares of this company and entitled to vote at any meeting shall conclusively be deemed to have authority to vote such shares and to execute proxies and written waivers or consents in relation thereto, whether such shares are held in a fiduciary capacity or otherwise, unless before a vote is taken or a consent or waiver is acted upon, a certified copy of a regulation, by-law or resolution, of the Board of Directors or Executive Committee of such member corporation is delivered to the Secretary of this company showing that such authority does not exist or is vested in some other officer or person. A person executing any such writing or so acting as one of such officers of such member corporation shall for the purposes of this paragraph be prima facie deemed to be duly elected, qualified and acting as such officer and to be fully authorized.

- (c) Voting by Proxies. A member may, through a written proxy, authorize another person (who need not be a member) to vote in the member's stead and to represent the member at one or more meetings of members or any adjournment thereof whether regular or special meetings but such instrument must be filed with the Secretary of this company or in the Secretary's office at least ten days before the meeting at which the person authorized thereby may exercise the rights thereunder. A vote in accordance with the terms of a duly filed proxy shall be valid notwithstanding the previous death of the principal or the revocation of the appointment unless notice in writing of such death or revocation shall have been received by the Secretary of the company or in the Secretary's office or such revocation is made in open meeting before the vote is taken or the authority granted is otherwise exercised; provided, however, that no proxy

hereafter made shall be valid after the expiration of eleven months after date of its execution unless the member executing it shall have specified therein the length of time it is to continue in force, and in no event shall a proxy be valid more than thirty six months after the date of its execution.

Section 8. Only a Majority Vote Required. Notwithstanding any provisions of law of the State of Ohio requiring for any purpose the vote of a designated proportion of the voting power of the company any action may be taken on any proposal at any meeting of members by the affirmative vote of a majority of the members present in person or by proxy at any such meeting if those so present constitute a quorum except an amendment to the Articles of Incorporation which shall require the affirmative vote of at least three-fifths of the members present in person or by proxy on such proposal if those so present constitute a quorum.

Section 9. Inspectors of Election. The Chairman of the Board may or upon the request of any member or proxy entitled to vote at a meeting of members shall appoint three (3) inspectors who need not be members. The inspectors of election shall determine the existence of a quorum; the authenticity, validity, and effect of proxies; receive votes, ballots, assents and consents, hear and determine all challenges and questions arising in connection with the vote; count and tabulate all votes, assents and consents; determine and announce the result. The decision, act or certificate of a majority of the inspectors shall be effective in all respects as the decision, act or certificate of all three. If requested to do so, the inspectors shall make a report in writing of any challenge, question or matter determined by them and make and execute a certificate of any facts found by them. The certificate of the inspectors shall be prima facie evidence of the facts therein stated and of the vote as certified by them.

Section 10. Order of Business. At all meetings of members, the order of business shall be as follows, unless changed by a majority of the members present at that meeting:

1. Reading of minutes of preceding meeting and taking action thereon;
2. Reading and consideration of reports and statements--report of the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, any other officer, and any committee;

3. Election of directors (at annual or special meeting called for that purpose);
4. Old or unfinished business;
5. New business;
6. Adjournment.

ARTICLE III

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the company shall begin on the first day of January and end on the last day of December of each year.

ARTICLE IV

Directors

Section 1. Powers of Directors. The corporate powers, business and property of the company shall be exercised, conducted and controlled by, or under the direction of, the Board of Directors except as otherwise required by statute, the Articles of Incorporation or these By-Laws with regard to action to be taken or approved by the members.

Section 2. Number, Qualification and Eligibility. The number of directors shall be Sixteen (16). No person, who is an officer or director of any corporation or association which has entered into a Sponsor's Service Agreement or Endorser's Advertising Agreement with this company, shall be eligible for the office of director of this company. Only persons nominated as candidates in writing and filed with the Secretary of the company at least 60 days prior to the date of the meeting at which directors are to be elected shall be eligible for election as directors; provided, if any person so nominated for the office of director shall die or decline such nomination or shall have become incapacitated from taking the office for which such person was nominated, then any person designated by the Board of Directors may be nominated in place thereof. No other nominations for the office of director shall be made except by unanimous consent of the members present in person or by proxy at a meeting at which any director is to be elected. Nominations may be made only by members.

Section 3. Classification and Election. The directors shall be divided into three classes and each class shall consist of as near as may be, of one-third of the number of directors. At each regular annual meeting of members, the successors of the class of directors whose term shall expire in that year shall be elected by ballot for a term of three years and until their respective successors are elected and qualified. Directors shall be elected by receiving the highest number of votes cast on the ballot. No requirements shall exist as to notice to of such annual election other than the notice of the date of the annual meeting printed on the policies of this company or those contained in this Code of By-Laws. If directors are not elected at the regular annual meeting of the members for any cause, they may be elected at any other meeting duly called for that purpose.

Section 4. Vacancies. Whenever a vacancy occurs in the Board of Directors of the company, the vacancy may be filled for the unexpired term by the vote of a majority of the Board of Directors present if those present constitute a quorum; provided, however, if the Board is reduced to less than a majority by reason of vacancies, however caused, the remaining directors, by a majority vote or the remaining director may fill such vacancies. The Board of Directors may declare the office of a director vacant if the director shall be declared of unsound mind by an order of court or be adjudicated a bankrupt or if the director does not qualify within sixty (60) days of election by accepting in writing election to such office or by acting at a meeting of the Board of Directors and the Board of Directors may thereupon fill such declared vacancy.

Section 5. Compensation. The members of the Board of Directors, other than salaried officers, shall receive such compensation as shall be fixed by the Board of Directors from time to time for the performance of services for the company, together with reimbursement for their expenses incurred in the performance of such services.

ARTICLE V

Meetings of Board of Directors

Section 1. Regular Annual Meeting. A regular annual meeting of the Board of Directors shall be held immediately following the termination of the regular annual meeting of the members of the company and at the same place of such meeting of members unless a different time and place is fixed by

resolution of the Board of Directors. If, for any reason, the regular annual meeting is not held as provided for in this section, then the business which may be transacted thereat may be transacted at any special meeting called as provided for in Section 3 of this Article.

Section 2. Other Regular Meetings. Any other regular meeting of the Board of Directors may be held at such time and place as may be fixed by the Board of Directors.

Section 3. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or by a majority of the Board of Directors.

Section 4. Place of Meetings. Any meeting of the Board of Directors may be held within or without the State of Ohio as may be fixed by the Board of Directors.

Section 5. Notice of Meetings and Waiver of Notice.

(a) A written or printed notice of each regular or special meeting of the Board of Directors, stating the time and place thereof shall be delivered to each director or sent by mail, telegram, cablegram or radiogram at the last known post office address of each director, not more than twenty days nor less than forty-eight hours before the time fixed for the meeting. Meetings may be held at any time or place without notice if all the members of the Board of Directors are present at the meeting or if those who are absent assent in writing to the holding of the meeting. Such assent may be given by the absent directors either before, at or after such meeting. In any event, any director may, either before, at or after any meeting of the Board, waive any or all of the provisions of law or of these By-Laws as to notices of such meeting or as to any irregularities in such notice or in the giving thereof, and shall thereby validate the proceedings of such meeting as fully as though all the requirements of the provisions waived had been duly met in their respective cases.

(b) If any meeting of the Board of Directors is adjourned to another time or place, no further notice as to such adjourned meeting need to be given if the time and place are fixed at the meeting adjourned.

Section 6. Quorum. A majority of the entire Board of Directors shall constitute a quorum at all meetings.

Section 7. Order of Business. The order of business of the Board of Directors at regular meetings, unless changed by a majority of the directors present, shall be as follows:

1. Roll call;
2. Reading of minutes of previous meeting and taking action thereon;
3. Reading reports and statements of officers and committees;
4. Unfinished business;
5. Election of officers (at annual meeting);
6. New or miscellaneous business;
7. Adjournment.

ARTICLE VI

Executive or Other Committees of the Board

Section 1. Executive or Other Committees of the Board. The Board of Directors by vote of a majority of the Board may, at its discretion, appoint or elect an Executive Committee of not less than three (3) members from its own number, who shall have and may exercise the powers of the Board of Directors in the interim between meetings of the Board of Directors, except filling vacancies in the Board of Directors or in any committee of the Board of Directors. The Executive Committee shall, at all times, be subject to any instructions issued by the Board of Directors. Such Executive Committee shall, from time to time, make a report of its acts and transactions to the Board of Directors. Such other committees of the Board may be appointed or elected as may be provided for by resolution of the Board of Directors. The act of a majority of the Executive Committee or any other committee of the Board shall be effective in all respects as the act of such committee at a meeting, or any such committee may act by a writing signed by all of its members without a meeting.

ARTICLE VII

Officers

Section 1. Officers. The officers, who must be members of the company, shall be a Chairman of the Board of Directors, Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President, one or more Vice Presidents, General Counsel, Secretary, Treasurer and such other vice presidents, assistant secretaries, assistant treasurers and

other officers as the Board of Directors may appoint or elect or provide by resolution from time to time. The Chairman of the Board, Chairman and Chief Executive Officer-Nationwide Insurance Enterprise and President must be members of the Board of Directors. Any two or more of the offices may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity, if such instrument is required by law or by the Articles of Incorporation or this Code of By-Laws to be executed, acknowledged or verified by two or more officers.

All of the above officers shall be chosen by the Board of Directors by ballot and by the vote of the majority of the Board of Directors at the regular annual meeting of the Board. The officers shall hold office until the date of the next annual meeting of the Board of Directors and until their respective successors are elected and qualified, provided, however, that any officer may be removed from office with or without cause at any time by a vote of at least two-thirds of the entire Board of Directors. If, for any cause, there is no regular annual meeting of the Board of Directors, or if such meeting is held and no one is elected or re-elected to one or more of the offices, the omitted election may be held in the manner above described at any other meeting of the Board of Directors if such meeting is duly called as a special meeting for that purpose or if each member of the Board of Directors shall be present or shall waive in writing the call and notice thereof.

ARTICLE VIII

Duties of Officers

Section 1. Chairman of the Board. The Chairman of the Board of Directors shall preside at all meetings of members and of the Board of Directors, and shall have such other powers and duties as may be prescribed by the Board of Directors. In the absence of the Chairman of the Board and the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, another director shall be selected by those directors present to serve as temporary Chairman, and shall be authorized to sign the records of meetings at which such director presides.

Section 2. Chairman and Chief Executive Officer-Nationwide Insurance Enterprise. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall exercise general administrative leadership and direction of the company in conformity with actions and controls established and

maintained by the Board of Directors. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall, in compliance with the laws of the State of Ohio, Articles of Incorporation and this Code of By-Laws, and in concurrence with the actions of the Board, direct the activities of its officers. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall have the power and authority to execute on behalf of the company any and all documents, contracts, instruments, or other papers to which the signature of the company is to be attached; provided, however, a facsimile signature may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the company. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall exercise the discretion of and perform generally all of the duties incident to the Office of Chairman and Chief Executive Officer-Nationwide Insurance Enterprise and such other and further duties as may be from time to time required by the Board of Directors.

In the absence of the Chairman of the Board, or at the request thereof, the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall preside at meetings of the members and the Board of Directors, sign the record of such meetings at which the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall preside and shall have such other powers and duties as may be prescribed by the Board of Directors.

Section 3. President. The President shall be the Chief Operating Officer of the company and shall, in compliance with the laws of the State of Ohio, Articles of Incorporation and this Code of Regulations, and in concurrence with the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise and actions of the Board of Directors, direct the activities of its officers.

Except as provided for by resolution of the Board of Directors or by memorandum from the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President shall have the power and authority to execute on behalf of the company those documents, contracts, instruments, or other papers to which the signature of the company is to be attached; provided, however, a facsimile signature may be printed, engraved or stamped on any approved document, contract, instrument, or other papers of this company. The

President shall exercise the discretion of and perform generally all of the duties incident to the Office of President and such other and further duties as may be required by the Board of Directors and the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise.

Section 4. Vice Presidents. The Vice Presidents, who may be designated Executive Vice President, Senior Vice President, Vice President, or Associate Vice President, shall have such powers and perform such duties as may be assigned to them by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or President and approved by the Board of Directors. The officer designated by the President and approved by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall act for the President in the absence or disability of the President.

Section 5. General Counsel. The General Counsel shall furnish legal counsel on corporate matters as required; render legal opinions to the Board of Directors, the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President and other officers and employees as requested; interpret all laws and regulations relating to the business of the corporation; initiate recommendations with respect to legislation affecting the business of the corporation; and shall perform such other and further duties as may be required by the Board of Directors, or Chairman and Chief Executive Officer-Nationwide Insurance Enterprise.

Section 6. Secretary. The Secretary shall issue notices and maintain the official records of all meetings of the members and the Board of Directors and such records shall be attested by the Secretary or by such other person as shall have acted as secretary of such meeting during Secretary's absence or disability; shall have charge of the seal of the company and shall have the power and authority to sign or attest all approved instruments, papers and documents where required in carrying on the business of the company; provided, however, a facsimile signature may be printed, engraved or stamped thereon, and shall perform such other and further duties as may from time to time be assigned by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President and approved by the Board of Directors.

Section 7. Treasurer. The Treasurer shall maintain custody of all funds, securities and properties of the company; direct the receipt and deposit of all funds and securities and payment of all authorized disbursements; direct the administration of all accounting activities of the company;

furnish financial reports of the company, as required; shall have the power and authority to sign or attest all approved instruments, papers and documents where required in carrying on the business of the company; and shall perform such other and further duties as may from time to time be assigned by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President and approved by the Board of Directors.

Section 8. Assistant Secretary. The Assistant Secretary shall at all times act as an assistant to the Secretary and have such powers and perform such duties as shall be assigned by the Secretary and approved by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President. In case both the Secretary and the Assistant Secretary are at the same time absent or unable to perform their duties the Board of Directors may appoint a secretary pro tempore with the power and duty to act as Secretary during such absence or disability of both the Secretary and Assistant Secretary.

Section 9. Assistant Treasurer. The Assistant Treasurer shall at all times act as an assistant to the Treasurer and shall have powers and perform such duties as shall be assigned by the Treasurer and approved by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President.

Section 10. Execution of Instruments. Any vice president and any assistant secretary or assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts or other papers in connection with the operation of the business of the company in addition to the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, Treasurer and Secretary; provided, however, the signature of any of them may be printed, engraved or stamped on any approved document, contract, instrument or other papers of the company.

Section 11. Vacancies. Whenever a vacancy occurs in any office of the company for any cause, the vacancy may be filled for the unexpired term by the vote of a majority of the Board of Directors present, if those present constitute a quorum thereof.

Section 12. Compensation of Officers. The officers of the company shall receive such compensation as shall be fixed by resolution of the Board of Directors.

Section 13. Bond of Officers and Employees. Any officer or employee of the company handling funds or negotiable instruments or any other property of the company shall furnish such bond or shall be covered by a blanket bond in such amounts and with such surety and sureties as may be required by the Board of Directors. The premium of any such bond shall be paid by the company.

ARTICLE IX

Indemnification

Section 1. Indemnification of Directors, Officers and Employees. The company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such person is or was a director, officer or employee of the company, or is or was serving at the request of the company as a director, trustee, officer, member, or employee of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, to the extent and under the circumstances permitted by the General Corporation Law of the State of Ohio; provided, however, that the company shall indemnify any such person seeking indemnity in connection with an action, suit or proceeding (or part thereof) initiated by such person only if such action, suit or proceeding (or part thereof) initiated by such person was authorized by the Board of Directors of the company. Such indemnification (unless ordered by a court) shall be made as authorized in a specific case upon a determination that indemnification of the director, trustee, officer or employee is proper in the circumstances because such person has met the applicable standards of conduct set forth in the General Corporation Law of the State of Ohio. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not, and are not, parties to or threatened with any such action, suit or proceeding, or (2) if such a quorum is not obtainable, or if a majority vote of a quorum of disinterested directors so directs, in a written opinion by independent legal counsel meeting the requirements

of independence prescribed by the General Corporation Law of Ohio, or (3) by the members, or (4) by the Court of Common Pleas or the court in which such action, suit or proceeding was brought.

Section 2. Other Rights. The foregoing right of indemnification shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles of Incorporation, these By-Laws, any agreement, vote of members or disinterested directors or otherwise, and shall continue as to a person who has ceased to be a director, trustee, officer or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 3. Advance Payment of Expenses. The company shall pay to any director, and may pay to any other person entitled to indemnification pursuant to Section 1 of this Article IX, expenses, including attorneys' fees, incurred in defending any action, suit or proceeding referred to in Section 1 of this Article IX, in advance of the final disposition of such action, suit or proceeding; provided, however, that the payment of such expenses in advance of the final disposition of such action, suit or proceeding shall be made only upon delivery to the company of any legally required undertaking by or on behalf of such director or other person.

Section 4. Contractual Rights; Applicability. The right to be indemnified or to the reimbursement or advancement of expenses pursuant hereto (i) is a contract right based upon good and valuable consideration, pursuant to which the person entitled thereto may bring suit as if the provision hereof were set forth in a separate written contract between the company and such person, (ii) is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof, and (iii) shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto.

Section 5. Requested Service. Any person serving, in any capacity, (i) another corporation of which a majority of the shares entitled to vote in the election of its directors is held by the company, or (ii) any employee benefit plan of the company or of any corporation referred to in clause (i), shall be deemed to be doing so at the request of the company.

Section 6. Insurance. The company may purchase and maintain insurance on behalf of any person who is or was a director, officer, or employee of the company, or is or was serving at

the request of the company as a director, trustee, officer, member or employee of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust, or other enterprise against any liability asserted against such person and incurred in any such capacity, or arising out of the status as such, whether or not the company would have the power to indemnify such person against such liability under this Article IX.

ARTICLE X

Distribution of Real Estate

Section 1. Distribution of Real Estate. The Board of Directors shall have the power and may sell, lease, mortgage or dispose of any real property owned by the company.

ARTICLE XI

Seal

Section 1. Seal. The seal of the company shall be circular with the name of the company engraved around the margin and the word "SEAL" engraved across the center.

ARTICLE XII

Amendments

Section 1. Amendments. This Code of By-Laws may be adopted, amended, changed or repealed by the affirmative vote two-thirds of the entire Board of Directors but no such adoption, amendment, change or repeal shall become effective unless and until approved by the Superintendent of Insurance of Ohio and a copy is filed in the Superintendent's office at Columbus, Ohio.

Effective: April 2, 1998

ARTICLES OF INCORPORATION
NATIONWIDE MUTUAL FIRE INSURANCE COMPANY

FIRST. The name of said corporation shall be Nationwide Mutual Fire Insurance Company.

SECOND. The place in this state where the principal office of the corporation is to be located is Columbus, Franklin County, Ohio.

THIRD. The company is formed for the purpose of transacting a general insurance and reinsurance business except life insurance in any of the kinds of insurance set forth in and as authorized by Section 3941.02 Revised Code of Ohio as it now exists or may hereafter be amended. Such insurance business shall be on the mutual plan and the corporation shall have all the powers necessary and incident to carrying on said insurance business upon said plan.

Effective September 1, 1955

NATIONWIDE MUTUAL FIRE INSURANCE COMPANY

AMENDED AND RESTATED CODE OF BY-LAWS

For the Government of the Members and
Board of Directors

ARTICLE I

Membership

Section 1. Members. Each policyholder of this company whose policy is in force shall be a member of this company.

Section 2. Rights of Members. Each member shall have such rights as are prescribed by the laws of the State of Ohio with respect to members of mutual insurance companies organized under Section 3941.02 of the Ohio Revised Code and the Articles of Incorporation, these By-Laws and the member's policy or policies of insurance in force.

Section 3. Membership Fee. The Board of Directors may provide for a membership fee.

Section 4. No Contingent Liability. In accordance with the provisions of the laws of the various jurisdictions in which the company operates, the policies of this company shall be non-assessable and members shall have no contingent liability with respect thereto.

Section 5. Termination of Membership. All rights of whatsoever kind or nature of members in this company shall terminate upon the member ceasing to have in force a policy of this company.

ARTICLE II

Meeting of Members

Section 1. Meetings in or Out of State. Any meetings of members may be held in or outside of the State of Ohio.

Section 2. Regular Annual Meeting. A regular annual meeting of the members shall be held at the home office of the company on the first Thursday of April of each year at 9:30 a.m. unless a different time or place is fixed by resolution of the Board of Directors, if not a legal holiday, but if a legal holiday then on the day following at the same time. If the Board of Directors shall elect to change the time or place of

such meeting, notice shall be given to each member as provided in Section 4 of this Article. If for any reason the regular annual meeting is not held as provided for in this section then the business to be transacted thereat may be transacted at any special meeting of members called as provided for in Section 3 of this Article.

Section 3. Special Meetings of Members. Special meetings of the members may be called by the Chairman of the Board, Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, a majority of the members of the Board of Directors acting with or without meeting, or upon the written request of members of the company who hold not less than $\frac{1}{2}$ of 1% of the number of policies in force as of the end of the calendar year preceding such written request. Upon request in writing by registered mail or delivered in person to the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President, by any person or persons entitled to call a meeting of the members, it shall be the duty of the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President or Secretary or Board of Directors forthwith to give notice to members as provided in Section 4 of this Article and if such notice shall not be so given then the person or persons making such request may give such notice to members. In the event of the death of all directors, a special meeting of the members may be called by any Executive Vice President, any Senior Vice President, the Secretary, or any Assistant Secretary of the company.

Section 4. Notice of Meetings of Members.

(a) Regular Annual Meeting and Special Meeting in Place Thereof. Notice of the regular annual meeting of members shall be given by printing the time and place thereof on each policy of the company. No other notice of such meeting shall be given except as required by this Section and by Section 2 of this Article. A written or printed notice specifying the time and place of a special meeting, called in place of the regular annual meeting where the Board of Directors has elected to change the time and place thereof as provided in Section 2 of this Article, shall be mailed to each member at such member's last known address as shown on the records of the company. Such notice shall be so mailed not less than 10 nor more than 45 days before the date fixed for the meeting and the members entitled to such notice shall be those with policies in force as of the day next preceding the day on which notice is given or, if a record date therefor is fixed as provided by law of these By-Laws, of record on such date so fixed; provided, at least 30 days' notice of the meeting and

the business to be transacted thereat shall be given by a majority of the Directors in a newspaper published and of general circulation in Franklin County, Ohio, in the event the Articles of Incorporation are proposed to be amended. In the event of the transfer of any policy after notice has been given and prior to the holding of the meeting, it shall not be necessary to serve notice upon the transferee of such policy. If any such meeting is adjourned to another time and place, no further notice as to such adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

(b) Other Special Meetings. Notice for special meetings, other than special meetings in place of regular annual meetings, shall specify the time, place, purpose or purposes thereof and no business other than that included in the notice shall be acted upon at such meeting, except with the consent of all of the members present and entitled to vote at the meeting in question. Thirty days' notice of such special meeting and the business to come before it shall be given by a majority of the Board of Directors in a newspaper published and of general circulation in Franklin County, Ohio.

Section 5. Waiver of Notice. Any member entitled to notice of any meeting of members may in person or by proxy, either before, at or after such meeting, waive notice in writing, which writing shall be filed with or entered upon the records of the meeting, of any or all of the provisions of law, the Articles of Incorporation or By-Laws as to notice of such meeting, including the time, place and purpose thereof or as to any irregularities in such notice or arising in connection therewith or with the giving thereof and shall thereby validate the proceedings at such meeting as fully as though all of the requirements waived had been duly met in their respective cases. The attendance of any member at any such meeting, in person or by proxy, without protesting the lack of a proper notice of such meeting shall be deemed to be a waiver of notice of such meeting.

Section 6. Quorum. Twenty (20) members present in person or by proxy and entitled to attend and vote at a meeting of members shall constitute a quorum for the transaction of business at that meeting but if at any regular or special meeting of the members or at any adjournment thereof such a quorum is not present, then a majority of the members present in person or by proxy and entitled to vote shall constitute a quorum for the purpose of adjourning the meeting until a quorum competent to act upon any matter or proposal is present.

Section 7. Voting.

- (a) One Vote for Each Member. Each member shall have the right to cast one vote in person or by proxy on each proposal brought before any meeting of the members.
- (b) Voting by Corporation. Subject to the provisions of the Articles of Incorporation and Section 7(a) of this Article, the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President, Chairman of the Board of Directors, any Vice President, Secretary or Treasurer of any corporation which is a member of this company and entitled to vote at any meeting shall conclusively be deemed to have authority to vote and to execute proxies and written waivers or consents on behalf of such member unless before a vote is taken or a consent or waiver is acted upon, a certified copy of a regulation, by-law or resolution, of the Board of Directors or Executive Committee of such member corporation is delivered to the Secretary of this company showing that such authority does not exist or is vested in some other officer or person. A person executing any such writing or so acting as one of such officers of such member corporation shall for the purposes of this paragraph be prima facie deemed to be duly elected, qualified and acting as such officer and to be fully authorized.
- (c) Voting by Proxies. A member may, through a written proxy, authorize another person (who need not be a member) to vote in the member's stead and to represent the member at one or more meetings of members or any adjournment thereof whether regular or special meetings but such instrument must be filed with the Secretary of this company or in the Secretary's office at least ten days before the meeting at which the person authorized thereby may exercise the rights thereunder. A vote in accordance with the terms of a duly filed proxy shall be valid notwithstanding the previous death of the member or the revocation of the appointment unless notice in writing of such death or revocation shall have been received by the Secretary of the company or in the Secretary's office or such revocation is made in open meeting before the vote is taken or the authority granted is otherwise exercised; provided, however, that no proxy hereafter made shall be valid after the expiration of eleven months after date of its execution unless the

member executing it shall have specified therein the length of time it is to continue in force, and in no event shall a proxy be valid more than thirty six months after the date of its execution.

Section 8. Only a Majority Vote Required. Notwithstanding any provisions of law of the State of Ohio requiring for any purpose the vote of a designated proportion of the voting power of the company any action may be taken on any proposal at any meeting of members by the affirmative vote of a majority of the members present in person or by proxy at any such meeting if those so present constitute a quorum except an amendment to the Articles of Incorporation which shall require the affirmative vote of at least three-fifths of the members present in person or by proxy on such proposal if those so present constitute a quorum.

Section 9. Inspectors of Election. The Chairman of the Board may or upon the request of any member or proxy entitled to vote at a meeting of members shall appoint three (3) inspectors who need not be members. The inspectors of election shall determine the existence of a quorum; the authenticity, validity, and effect of proxies; receive votes, ballots, assents and consents, hear and determine all challenges and questions in any way arising in connection with the vote; count and tabulate all votes, assents and consents; determine and announce the result. The decision, act or certificate of a majority of the inspectors shall be effective in all respects as the decision, act or certificate of all three. If requested to do so, the inspectors shall make a report in writing of any challenge, question or matter determined by them and make and execute a certificate of any facts found by them. The certificate of the inspectors shall be prima facie evidence of the facts therein stated and of the vote as certified by them.

Section 10. Order of Business. At all meetings of members, the order of business shall be as follows, unless changed by a majority of the members present at that meeting:

1. Reading of minutes of preceding meeting and taking action thereon;
2. Reading and consideration of reports and statements--report of the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, any other officer, and any committee;
3. Election of directors (at annual or special meeting called for that purpose);

4. Old or unfinished business;
5. New business;
6. Adjournment.

ARTICLE III

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the company shall begin on the first day of January and end on the last day of December of each year.

ARTICLE IV

Directors

Section 1. Powers of Directors. The corporate powers, business and property of the company shall be exercised, conducted and controlled by, or under the direction of, the Board of Directors except as otherwise required by statute, the Articles of Incorporation or these By-Laws with regard to action to be taken or approved by the members.

Section 2. Number, Qualification and Eligibility. The number of directors shall be sixteen (16). No person, who is an officer or director of any corporation or association which has entered into a Sponsor's Service Agreement or Endorser's Advertising Agreement with this company, shall be eligible for the office of director of this company. Only persons nominated as candidates in writing and filed with the Secretary of the company at least 60 days prior to the date of the meeting at which directors are to be elected shall be eligible for election as directors; provided, if any person so nominated for the office of director shall die or decline such nomination or shall have become incapacitated from taking the office for which such person was nominated, then any person designated by the Board of Directors may be nominated in place thereof. No other nominations for the office of director shall be made except by unanimous consent of the members present in person or by proxy at a meeting at which any director is to be elected. Nominations may be made only by members.

Section 3. Classification and Election. The directors shall be divided into three classes and each class shall consist of as near as may be, of one-third of the number of directors. At each regular annual meeting of members, the successors of the

class of directors whose term shall expire in that year shall be elected by ballot for a term of three years and until their respective successors are elected and qualified. Directors shall be elected by receiving the highest number of votes cast on the ballot. No requirements shall exist as to notice to of such annual election other than the notice of the date of the annual meeting printed on the policies of this company or those contained in this Code of By-Laws. If directors are not elected at the regular annual meeting of the members for any cause, they may be elected at any other meeting duly called for that purpose.

Section 4. Vacancies. Whenever a vacancy occurs in the Board of Directors of the company, the vacancy may be filled for the unexpired term by the vote of a majority of the Board of Directors present if those present constitute a quorum; provided, however, if the Board is reduced to less than a majority by reason of vacancies, however caused, the remaining directors, by a majority vote or the remaining director may fill such vacancies. The Board of Directors may declare the office of a director vacant if the director shall be declared of unsound mind by an order of court or be adjudicated a bankrupt or if the director does not qualify within sixty (60) days of election by accepting in writing election to such office or by acting at a meeting of the Board of Directors and the Board of Directors may thereupon fill such declared vacancy.

Section 5. Compensation. The members of the Board of Directors, other than salaried officers, shall receive such compensation as shall be fixed by the Board of Directors from time to time for the performance of services for the company, together with reimbursement for their expenses incurred in the performance of such services.

ARTICLE V

Meetings of Board of Directors

Section 1. Regular Annual Meeting. A regular annual meeting of the Board of Directors shall be held immediately following the termination of the regular annual meeting of the members of the company and at the same place of such meeting of members unless a different time and place is fixed by resolution of the Board of Directors. If, for any reason, the regular annual meeting is not held as provided for in this

section, then the business which may be transacted thereat may be transacted at any special meeting called as provided for in Section 3 of this Article.

Section 2. Other Regular Meetings. Any other regular meeting of the Board of Directors may be held at such time and place as may be fixed by the Board of Directors.

Section 3. Special Meetings. Special meetings of the Board of Directors may be called by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or by a majority of the Board of Directors.

Section 4. Place of Meetings. Any meeting of the Board of Directors may be held within or without the State of Ohio as may be fixed by the Board of Directors.

Section 5. Notice of Meetings and Waiver of Notice.

(a) A written or printed notice of each regular or special meeting of the Board of Directors, stating the time and place thereof shall be delivered to each director or sent by mail, telegram, cablegram or radiogram at the last known post office address of each director, not more than twenty days nor less than forty-eight hours before the time fixed for the meeting. Meetings may be held at any time or place without notice if all the members of the Board of Directors are present at the meeting or if those who are absent assent in writing to the holding of the meeting. Such assent may be given by the absent directors either before, at or after such meeting. In any event, any director may, either before, at or after any meeting of the Board, waive any or all of the provisions of law or of these By-Laws as to notices of such meeting or as to any irregularities in such notice or in the giving thereof, and shall thereby validate the proceedings of such meeting as fully as though all the requirements of the provisions waived had been duly met in their respective cases.

(b) If any meeting of the Board of Directors is adjourned to another time or place, no further notice as to such adjourned meeting need to be given if the time and place are fixed at the meeting adjourned.

Section 6. Quorum. A majority of the entire Board of Directors shall constitute a quorum at all meetings.

Section 7. Order of Business. The order of business of the Board of Directors at regular meetings, unless changed by a majority of the directors present, shall be as follows:

1. Roll call;
2. Reading of minutes of previous meeting and taking action thereon;
3. Reading reports and statements of officers and committees;
4. Unfinished business;
5. Election of officers (at annual meeting);
6. New or miscellaneous business;
7. Adjournment.

ARTICLE VI

Executive or Other Committees of the Board

Section 1. Executive or Other Committees of the Board. The Board of Directors by vote of a majority of the Board may, at its discretion, appoint or elect an Executive Committee of not less than three (3) members from its own number, who shall have and may exercise the powers of the Board of Directors in the interim between meetings of the Board of Directors, except filling vacancies in the Board of Directors or in any committee of the Board of Directors. The Executive Committee shall, at all times, be subject to any instructions issued by the Board of Directors. Such Executive Committee shall, from time to time, make a report of its acts and transactions to the Board of Directors. Such other committees of the Board may be appointed or elected as may be provided for by resolution of the Board of Directors. The act of a majority of the Executive Committee or any other committee of the Board shall be effective in all respects as the act of such committee at a meeting, or any such committee may act by a writing signed by all of its members without a meeting.

ARTICLE VII

Officers

Section 1. Officers. The officers, who must be members of the company, shall be a Chairman of the Board of Directors, Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, one or more Vice Presidents, General Counsel, Secretary, Treasurer and such other vice presidents, assistant secretaries, assistant treasurers and other officers as the Board of Directors may appoint or elect or provide for by resolution from time to time. The Chairman of the Board, Chairman and Chief Executive Officer-Nationwide Insurance Enterprise and President must be members of the Board of

Directors. Any two or more of the offices may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity, if such instrument is required by law or by the Articles of Incorporation or this Code of By-Laws to be executed, acknowledged or verified by two or more officers.

All of the above officers shall be chosen by the Board of Directors by ballot and by the vote of the majority of the Board of Directors at the regular annual meeting of the Board. The officers shall hold office until the date of the next annual meeting of the Board of Directors and until their respective successors are elected and qualified, provided, however, that any officer may be removed from office with or without cause at any time by a vote of at least two-thirds of the entire Board of Directors. If, for any cause, there is no regular annual meeting of the Board of Directors, or if such meeting is held and no one is elected or re-elected to one or more of the offices, the omitted election may be held in the manner above described at any other meeting of the Board of Directors if such meeting is duly called as a special meeting for that purpose or if each member of the Board of Directors shall be present or shall waive in writing the call and notice thereof.

ARTICLE VIII

Duties of Officers

Section 1. Chairman of the Board. The Chairman of the Board of Directors shall preside at all meetings of members and of the Board of Directors, and shall have such other powers and duties as may be prescribed by the Board of Directors. In the absence of the Chairman of the Board and the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, another director shall be selected by those directors present to serve as temporary Chairman, and shall be authorized to sign the records of meetings at which such director presides.

Section 2. Chairman and Chief Executive Officer-Nationwide Insurance Enterprise. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall exercise general administrative leadership and direction of the company in conformity with actions and controls established and maintained by the Board of Directors. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall, in compliance with the laws of the State of Ohio, Articles of Incorporation and this Code of By-Laws, and in concurrence

with the actions of the Board, direct the activities of its officers. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall have the power and authority to execute on behalf of the company any and all documents, contracts, instruments, or other papers to which the signature of the company is to be attached; provided, however, a facsimile signature may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the company. The Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall exercise the discretion of and perform generally all of the duties incident to the Office of Chairman and Chief Executive Officer-Nationwide Insurance Enterprise and such other and further duties as may be from time to time required by the Board of Directors.

In the absence of the Chairman of the Board, or at the request thereof, the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall preside at meetings of the members and the Board of Directors, sign the record of such meetings at which the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall preside and shall have such other powers and duties as may be prescribed by the Board of Directors.

Section 3. President. The President shall be the Chief Operating Officer of the company and shall, in compliance with the laws of the State of Ohio, Articles of Incorporation and this Code of Regulations, and in concurrence with the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise and actions of the Board of Directors, direct the activities of its officers.

Except as provided for by resolution of the Board of Directors or by memorandum from the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, the President shall have the power and authority to execute on behalf of the company those documents, contracts, instruments, or other papers to which the signature of the company is to be attached; provided, however, a facsimile signature may be printed, engraved or stamped on any approved document, contract, instrument, or other papers of this company. The President shall exercise the discretion of and perform generally all of the duties incident to the Office of President and such other and further duties as may be required by the Board of Directors and the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise.

Section 4. Vice Presidents. The Vice Presidents, who may be designated Executive Vice President, Senior Vice President, Vice President, or Associate Vice President, shall have such powers and perform such duties as may be assigned to them by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or President and approved by the Board of Directors. The officer designated by the President and approved by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise shall act for the President in the absence or disability of the President.

Section 5. General Counsel. The General Counsel shall furnish legal counsel on corporate matters as required; render legal opinions to the Board of Directors, the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President and other officers and employees as requested; interpret all laws and regulations relating to the business of the corporation; initiate recommendations with respect to legislation affecting the business of the corporation; and shall perform such other and further duties as may be required by the Board of Directors, or Chairman and Chief Executive Officer-Nationwide Insurance Enterprise.

Section 6. Secretary. The Secretary shall issue notices and maintain the official records of all meetings of the members and the Board of Directors and such records shall be attested by the Secretary or by such other person as shall have acted as secretary of such meeting during Secretary's absence or disability; shall have charge of the seal of the company and shall have the power and authority to sign or attest all approved instruments, papers and documents where required in carrying on the business of the company; provided, however, a facsimile signature may be printed, engraved or stamped thereon, and shall perform such other and further duties as may from time to time be assigned by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President and approved by the Board of Directors.

Section 7. Treasurer. The Treasurer shall maintain custody of all funds, securities and properties of the company; direct the receipt and deposit of all funds and securities and payment of all authorized disbursements; direct the administration of all accounting activities of the company; furnish financial reports of the company, as required; shall have the power and authority to sign or attest all approved instruments, papers and documents where required in carrying on the business of the company; and shall perform such other and further duties as may from time to time be assigned by the

Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President and approved by the Board of Directors.

Section 8. Assistant Secretary. The Assistant Secretary shall at all times act as an assistant to the Secretary and have such powers and perform such duties as shall be assigned by the Secretary and approved by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President. In case both the Secretary and the Assistant Secretary are at the same time absent or unable to perform their duties the Board of Directors may appoint a secretary pro tempore with the power and duty to act as Secretary during such absence or disability of both the Secretary and Assistant Secretary.

Section 9. Assistant Treasurer. The Assistant Treasurer shall at all times act as an assistant to the Treasurer and shall have powers and perform such duties as shall be assigned by the Treasurer and approved by the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise or the President.

Section 10. Execution of Instruments. Any vice president and any assistant secretary or assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts or other papers in connection with the operation of the business of the company in addition to the Chairman and Chief Executive Officer-Nationwide Insurance Enterprise, President, Treasurer and Secretary; provided, however, the signature of any of them may be printed, engraved or stamped on any approved document, contract, instrument or other papers of the company.

Section 11. Vacancies. Whenever a vacancy occurs in any office of the company for any cause, the vacancy may be filled for the unexpired term by the vote of a majority of the Board of Directors present, if those present constitute a quorum thereof.

Section 12. Compensation of Officers. The officers of the company shall receive such compensation as shall be fixed by resolution of the Board of Directors.

Section 13. Bond of Officers and Employees. Any officer or employee of the company handling funds or negotiable instruments or any other property of the company shall furnish

such bond or shall be covered by a blanket bond in such amounts and with such surety and sureties as may be required by the Board of Directors. The premium of any such bond shall be paid by the company.

ARTICLE IX

Indemnification

Section 1. Indemnification of Directors, Officers and Employees. The company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such person is or was a director, officer or employee of the company, or is or was serving at the request of the company as a director, trustee, officer, member, or employee of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, to the extent and under the circumstances permitted by the General Corporation Law of the State of Ohio; provided, however, that the company shall indemnify any such person seeking indemnity in connection with an action, suit or proceeding (or part thereof) initiated by such person only if such action, suit or proceeding (or part thereof) initiated by such person was authorized by the Board of Directors of the company. Such indemnification (unless ordered by a court) shall be made as authorized in a specific case upon a determination that indemnification of the director, trustee, officer or employee is proper in the circumstances because such person has met the applicable standards of conduct set forth in the General Corporation Law of the State of Ohio. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not, and are not, parties to or threatened with any such action, suit or proceeding, or (2) if such a quorum is not obtainable, or if a majority vote of a quorum of disinterested directors so directs, in a written opinion by independent legal counsel meeting the requirements of independence prescribed by the General Corporation Law of Ohio, or (3) by the members, or (4) by the Court of Common Pleas or the court in which such action, suit or proceeding was brought.

Section 2. Other Rights. The foregoing right of indemnification shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles of Incorporation, these By-Laws, any agreement, vote of members or disinterested directors or otherwise, and shall continue as to a person who has ceased to be a director, trustee, officer or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 3. Advance Payment of Expenses. The company shall pay to any director, and may pay to any other person entitled to indemnification pursuant to Section 1 of this Article IX, expenses, including attorneys' fees, incurred in defending any action, suit or proceeding referred to in Section 1 of this Article IX, in advance of the final disposition of such action, suit or proceeding; provided, however, that the payment of such expenses in advance of the final disposition of such action, suit or proceeding shall be made only upon delivery to the company of any legally required undertaking by or on behalf of such director or other person.

Section 4. Contractual Rights; Applicability. The right to be indemnified or to the reimbursement or advancement of expenses pursuant hereto (i) is a contract right based upon good and valuable consideration, pursuant to which the person entitled thereto may bring suit as if the provision hereof were set forth in a separate written contract between the company and such person, (ii) is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof, and (iii) shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto.

Section 5. Requested Service. Any person serving, in any capacity, (i) another corporation of which a majority of the shares entitled to vote in the election of its directors is held by the company, or (ii) any employee benefit plan of the company or of any corporation referred to in clause (i), shall be deemed to be doing so at the request of the company.

Section 6. Insurance. The company may purchase and maintain insurance on behalf of any person who is or was a director, officer, or employee of the company, or is or was serving at the request of the company as a director, trustee, officer, member or employee of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust, or other enterprise against any liability asserted against such person and incurred in any such capacity, or

arising out of the status as such, whether or not the company would have the power to indemnify such person against such liability under this Article IX.

ARTICLE X

Distribution of Real Estate

Section 1. Distribution of Real Estate. The Board of Directors shall have the power and may sell, lease, mortgage or dispose of any real property owned by the company.

ARTICLE XI

Seal

Section 1. Seal. The seal of the company shall be circular with the name of the company engraved around the margin and the word "SEAL" engraved across the center.

ARTICLE XII

Amendments

Section 1. Amendments. This Code of By-Laws may be adopted, amended, changed or repealed by the affirmative vote two-thirds of the entire Board of Directors but no such adoption, amendment, change or repeal shall become effective unless and until approved by the Superintendent of Insurance of Ohio and a copy is filed in the Superintendent's office at Columbus, Ohio.

Effective: April 2, 1998

Nationwide Insurance Companies

Role of the Independent Contractor Agent -

Nationwide hires independent contractor agents to sell the company's insurance products and service policyholders. Nationwide enters into a contractual relationship with each independent contractor agent that outlines the rights and obligations of the agent representing Nationwide in the sale and service of insurance.

The company provides the agent with the necessary portfolio of products, market direction, and training to aid the agency sales force and the agents are responsible for exclusively representing the Nationwide Companies to produce and retain business. An independent contractor agent is not permitted to represent any other insurance company without the prior written consent of Nationwide. The Nationwide insurance agents act in a fiduciary capacity for the company since they are responsible for accepting and remitting insurance premium to the Nationwide companies.

As an independent contractor, the agents have the right to exercise independent judgement as to time, place, and manner of soliciting insurance, servicing policyholders and otherwise carrying out their role as an agent for the Nationwide companies. Nationwide does provide the agents with certain

manuals, forms, records, and other material and supplies as are necessary in the conduct of an insurance business. Further, Nationwide offers training, counsel and guidance based upon its experience of transacting insurance business. However, because of their independent contractor relationship with Nationwide, the agent may accept or reject such offers at their discretion.

The overall objectives in developing an independent contractor relationship with each agent are: to assist the agent in establishing and maintaining a growing insurance agency; to provide a relationship that results in the best service to the Nationwide policyholders; and to maintain Nationwide's financial strength at the level necessary to protect the policyholder's of Nationwide.

Subject: Letter of 2/25/99 to FEC re Nationwide insurance companies

Date: Tue, 02 Mar 1999 15:20:38 -0500

From: Bradley Litchfield <brlitch@fec.gov>

Organization: Federal Election Commission

To: andrew_clubok@kirkland.com

Mr. Clubok:

I just left a voice mail at your direct number listed in the subject letter. To elaborate just a little.

What I need to know is the meaning and context of the term "member policyholders who are also independent contractor agents" of a Nationwide company. For example, are there member policyholders of Nationwide who are not also ICA's? Are there ICA's who are not member policyholders? To what extent are these terms mutually exclusive or completely overlapping or partially overlapping?

It may be helpful or even necessary in this respect for you to submit the articles of incorporation and bylaws for the Nationwide companies identified in your letter. We should discuss.

Also, to what extent, if at all, are the personnel, whom you have described, holders or owners of life insurance policies issued by either of the two Nationwide companies identified in your letter? It appears that you are referring to other types of insurance policies; for example, homeowners fire/casualty insurance, auto insurance?? Please clarify.

Thanks,

Bradley Litchfield
Associate General Counsel
Federal Election Commission

202-694-1650
email: brlitch@fec.gov

KIRKLAND & ELLIS
PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

655 Fifteenth Street, N.W.
Washington, D.C. 20005

202 879-5000

Andrew B. Clubok
To Call Writer Directly:
(202) 879-5173
andrew_clubok@kirkland.com

Facsimile:
202 879-5200

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
FEB 26 3 48 PM '99

February 25, 1999

Federal Election Commission
Mr. N. Bradley Litchfield, Associate General Counsel
Office of General Counsel
999 E Street, NW
Washington, D.C. 20463

Re: Request for Advisory Opinion Regarding Solicitation of Policyholders of a
Mutual Insurance Company for Contributions to a Corporate Sponsored
Political Action Committee

Dear Mr. Litchfield:

This request for an advisory opinion is made on behalf of Nationwide Political Participation Committee ("the Committee"), a separate segregated fund sponsored by Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company ("Nationwide"). The Committee seeks guidance as to which individuals may be solicited for voluntary contributions under Sections 441(b)(4)(A) and (C) of the Federal Election Campaign Act of 1971, as amended. Specifically, an Advisory Opinion is requested on the following issue:

May the Committee solicit voluntary contributions to a federal separate segregated fund, established under Section 441b(b)(2)(C) of the Federal Election Campaign Act of 1971 as amended, from member policyholders who are also independent contractor agents?

Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company were organized under Section 3941.02 of the laws of the State of Ohio as nonprofit corporations. Because both are mutual insurance companies, they have member policyholders instead of shareholders. As is the case for all Ohio domestic mutual insurance companies, each of Nationwide's policyholders is a member while his policy is in force, and each member has equal voting rights.

Pursuant to Section 441b(b)(2)(C) of the Federal Election Campaign Laws, Nationwide has sponsored the Nationwide Political Participation Committee. The Committee would

KIRKLAND & ELLIS

Federal Election Commission
February 25, 1999
Page 2

like to solicit those policyholder members who are independent contractor agents of Nationwide Mutual and Nationwide Mutual Fire Insurance Companies for voluntary contributions.

Section 441b(b)(4)(A) of the Federal Election Campaign laws provides that "it shall be unlawful for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families." Section 441b(b)(4)(C) of the Federal Election Campaign laws clarifies this rule, however, by providing that "this paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock from soliciting contributions to such a fund from members of such an organization, cooperative, or corporation without capital stock."

Further, Section 114.7(a) of the Code of Federal Regulations permits membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such person to solicit contributions to the fund from members and executive or administrative personnel, and their families, of the organization, cooperative, or corporation without capital stock. Section 114.7(i) of the Code of Federal Regulations further provides that a mutual life insurance company may solicit policyholders if the policyholders are members within the organization structure.

Because Nationwide is a membership organization without capital stock, the Committee believes it may solicit those policyholder members who are independent contractor agents pursuant to Section 441(b)(4)(C) of the Federal Election Campaign laws and Sections 114.7(a) and 114.7(i) of the Code of Federal Regulation. We respectfully request an advisory opinion on this issue.

Please let me know if I can provide further information or answer any questions you may have concerning this request. Thank you for your consideration concerning this matter.

Very truly yours,



Andrew B. Clubok