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July 7, 1999

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OFFICE OF GENERAL
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Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Attn: N. Bradley Litchfield
Associate General Counsel

Re: Advisory Opinion Request – U.S. Apple Association Political Action Committee

Dear Commissioners:

The following additional information is submitted in response to Mr. Litchfield's request relative to the U.S. Apple Association Political Action Committee's (USApple PAC's) June 1, 1999 request for an advisory opinion that it qualifies as a federation of trade associations under the Commission's regulations at 11 C.F.R. section 114.8(g):

1. The Washington State law creating the Washington Apple Commission (WAC), a state trade association member of the U. S. Apple Association which was created under state law and is known generally as a "state marketing order." The WAC has no bylaws or articles of incorporation.

2. Copies of the minutes of WAC for August 13 and September 10, 1998 at which the WAC's budget is discussed, including the approval of its dues assessment to the U.S. Apple Association.

3. The articles of incorporation of the Minnesota Apple Growers Association, an example of a state trade association member of the U.S. Apple Association that was not created under state law and is therefore not a "state marketing order."

4. A copy of the minutes of the January 5, 1999 meeting of the Board of Directors of the Minnesota Apple Growers Association at which its budget, including its dues to the U.S. Apple Association were discussed and approved.

I hope the enclosed information is responsive to Mr. Litchfield's request. If any additional information is needed please do not hesitate to contact me.

Sincerely

Evan M. Migdail

Cc: Kraig Naasz
Treasurer, USApple PAC

RCW1998

CHAPTER 15.24 RCW
APPLE ADVERTISING COMMISSION

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NOTES:

Investment of agricultural commodity commission fundsin savings or time deposits of banks, trust companies and mutual savings banks: RCW 15.66.185.

RCW 15.24.010 Definitions.
As used in this chapter:

(1) "Commission" means the Washington state apple advertising commissio
(2) "Ship" means to load apples into a conveyance for transport, except apples being moved from the orchard where grown to a packing house or warehouse within the immediate area of production;
(3) "Handler" means any person who ships or initiates a shipping operation, whether for himself or for another;
(4) "Dealer" means any person who handles, ships, buys, or sells apples, or who acts as sales or purchasing agent, broker, or factor of apples;
(5) "Processor" and "processing plant" means every person to whom and every place to which apples are delivered for drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing a product or manufacturing a manufactured article;
(6) "Processing apples" means all apples delivered to a processing plant for drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing a product or manufacturing a manufactured article;
(7) "Fresh apples" means all apples other than processing apples;
(8) "Director" means the director of the department of agriculture or his duly authorized representative;
(9) "Grower district No. 1" includes the counties of Chelan, Okanogan, and Douglas
(10) "Grower district No. 2" includes the counties of Kittitas, Yakima, Benton, and Franklin
(11) "Grower district No. 3" includes all counties in the state not included in the first and second districts;
(12) "Dealer district No. 1" includes the area of the state north of Interstate 90
(13) "Dealer district No. 2" includes the area of the state south of Interstate 90; an
(14) "Executive officer" includes, but is not limited to, the principal management executive, sales manager, general manager, or other executive employee of similar responsibility and authority. [1989 c 354 § 53; 1967 c 240 § 22; 1963 c 145 § 1; 1961 c 11 § 15.24.010. Prior: 1937 c 195 § 2; RRS § 2874-2.]

NOTES:

Severability--1989 c 354: See note following RCW 15.36.012.

RCW 15.24.020 Commission created--Generally.

There is hereby created a Washington state apple advertising commission to be thus known and designated. The commission shall be composed of nine practical apple producers and four practical apple dealers. The director shall be an ex officio member of the commission without vote.

The nine producer members shall be citizens and residents of this state, over the age of twenty-five years, each of whom, either individually or as an executive officer of a corporation, firm or partnership, is and has been actually engaged in growing and producing apples within the state of Washington for a period of five years, currently operates a commercial producing orchard in the district represented, and has during that period derived a substantial portion of his income therefrom: PROVIDED, That he may own and operate an apple warehouse and pack and store apples grown by others, without being disqualified, so long as a substantial quantity of the apples handled in such warehouse are grown by him; and he may sell apples grown by himself and others so long as he does not sell a larger quantity of apples grown by others than those grown by himself. The four dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association, or cooperative organization, are and have been actively engaged as dealers in apples within the state of Washington for a period of five years, and are citizens and residents of this state, and are engaged as apple dealers in the district represented. The qualifications of members of the commission as herein set forth must continue during their term of office. [1989 c 354 § 54; 1967 c 240 § 23; 1963 c 145 § 2; 1961 c 11 § 15.24.020. Prior: 1949 c 191 § 1, part; 1937 c 195 § 3, part; Rem. Supp. 1949 § 2874-3, part.]

NOTES:

Severability--1989 c 354: See note following RCW 15.36.012.

RCW 15.24.030 Members--Election--Terms--District subdivisions--Meetings.

Thirteen persons with the qualifications stated in RCW 15.24.020 shall be elected members of said commission. Four of the grower members, being positions one, two, three and four, shall be from grower district No. 1, at least one of whom shall be a resident of and engaged in growing and producing apples in Okanogan county; four of the grower members, being positions five, six, seven and eight, from grower district No. 2; and one grower member, being position nine from grower district No. 3. Two of the dealer members, being positions ten and eleven, shall be from dealer district No. 1; and two of the dealer members, being positions twelve and thirteen, shall be from dealer district No. 2.

The commission shall have authority in its discretion to establish by regulation one or more subdivisions of grower district No. 1 and one or more subdivisions of grower district No. 2; provided that each of the same includes a substantial apple producing district or districts, and provided the same does not result in an unfair or unequitable voting situation or an unfair or unequitable representation of apple growers on said commission. In such event each of said subdivisions shall be entitled to be represented by one of the said grower members of the commission, who shall be elected by vote of the qualified apple growers in said subdivision of said district, and who shall be a resident of and engaged in growing and producing apples in said subdivision.

The regular term of office of the members of the commission shall be three years from March 1 following their election and until their successors are elected and qualified. The commission shall hold its annual meeting during the month of March each year for the purpose of electing officers and the transaction of other business and shall hold such other meetings during the year as it shall determine. [1989 c 354 § 55; 1967 c 240 § 24; 1963 c 145 § 3; 1961 c 11 § 15.24.030. Prior: 1949 c 191 § 1, part; 1937 c 195 § 3, part; Rem. Supp. 1949 § 2874-3, part.]

NOTES:

Severability--1989 c 354: See note following RCW 15.36.012.

RCW 15.24.040 Members--Nominations.

The director shall call a meeting of apple growers, and meetings of apple dealers in dealer district No. 1 and dealer district No. 2 for the purpose of nominating their respective members of the commission, when a term is about to expire, or when a vacancy exists, except as provided in RCW 15.24.050, as amended, at times and places to be fixed by the commission. Said meetings shall be held not later than February 15th of each year and insofar as practicable, the said meetings of the growers shall be held at the same time and place as the annual meeting of the Washington state horticultural association, or the annual meeting of any other producer organization which represents a majority of the state's apple producers, as determined by the commission, but not while the same is in actual session. Public notice of such meetings shall be given by the commission in such manner as it may determine: PROVIDED, That nonreceipt of the notice by any interested person shall not invalidate the proceedings. Any qualified person may be nominated orally for such positions at the said respective meetings. Nominations may also be made within five days after any such meeting by written petition filed in the Wenatchee office of the commission, signed by not less than five apple growers or dealers, as the case may be, residing within the district or within the subdivision if the nomination is made from a subdivision.

The members of the commission shall be elected by secret mail ballot under the supervision of the director: PROVIDED, That in any case where there is but one nomination for a position, a secret mail ballot shall not be conducted or required and the director shall certify the candidate to be elected. Grower members of the commission shall be elected by a majority of the votes cast by the apple growers in the respective districts or subdivisions thereof, as the case may be, each grower who operates a commercial producing apple orchard within the district or subdivision being represented, whether an individual proprietor, partnership, joint venture, or corporation, being entitled to one vote. As to bona fide leased or rented orchards, only the lessee-operator, if otherwise qualified, shall be entitled to vote. An individual commercial orchard operator, if otherwise qualified, shall be entitled to vote as such, even though he is also a member of a partnership or corporation which votes for other apple acreage. Dealer members of the commission shall be elected by a majority of the votes cast by the apple dealers in the respective districts, each dealer being entitled to one vote. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes. [1989 c 354 § 56; 1967 c 240 § 25; 1963 c 145 § 4; 1961 c 11 § 15.24.040. Prior: 1949 c 191 § 1, part; 1937 c 195 § 3, part; Rem. Supp. 1949 § 2874-3, part.]

NOTES:

Severability--1989 c 354: See note following RCW 15.36.012.

RCW 15.24.050 Vacancies--Quorum--Compensation--Travel expenses.

In the event a position becomes vacant due to resignation, disqualification, death, or for any other reason, such position until the next annual meeting shall be filled by vote of the remaining members of the commission. At such annual meeting a commissioner shall be elected to fill the balance of the unexpired term.

A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when out of state on official commission business. [1984 c 287 § 12; 1975-'76 2nd ex.s. c 34 § 12; 1967 c 240 § 26; 1961 c 11 § 15.24.050. Prior: 1949 c 191 § 1, part; 1937 c 195 § 3, part; Rem. Supp. 1949 § 2874-3, part.]

NOTES:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220
Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115

RCW 15.24.060 Commission records as evidence.

Copies of the proceedings, records and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in any court as prima facie evidence of the truth of the statements contained therein. [1961 c 11 § 15.24.060. Prior: 1937 c 195 § 4, part; RRS § 2874-4, part.]

RCW 15.24.070 Powers and duties.

The Washington state apple advertising commission is hereby declared and created a corporate body. The powers and duties of the commission shall include the following:

(1) To elect a chair and such other officers as it deems advisable; and to adopt, rescind, and amend rules and orders for the exercise of its powers under this chapter, which shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(3) To employ and at its pleasure discharge a manager, secretary, agents, attorneys, and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter;

(5) To investigate and prosecute violations of this chapter;

(6) To conduct scientific research to develop and discover the health, food, therapeutic, and dietetic value of apples and apple products;

(7) To keep accurate record of all of its dealings, which shall be open to inspection and audit by the state auditor;

(8) To sue and be sued, adopt a corporate seal, and have all of the powers of a corporation;

(9) To expend funds for commodity-related education, training, and leadership programs as the commission deems expedient;

(10) To borrow money and incur indebtedness;

(11) To accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The commission shall adopt rules to govern and protect the receipt and expenditure of the proceeds, rents, profits, and income of all such gifts, grants, conveyances, bequests, and devises. The authority to make expenditures granted by this subsection includes the authority to make expenditures to provide scholarships or financial assistance to persons as defined in RCW 1.16.080 or entities associated with the apple industry, but is not limited to the authority to make expenditures for such a purpose; and

(12) To engage in appropriate fund-raising activities for the purpose of supporting the activities of the commission authorized by this chapter. [1994 c 134 § 1; 1987 c 393 § 3; 1986 c 203 § 3; 1963 c 145 § 5; 1961 c 11 § 15.24.070. Prior: (i) 1937 c 195 § 8; RRS § 2874-8. (ii) 1937 c 195 § 5; RRS § 2874-5. (iii) 1937 c 195 § 4, part; RRS § 2874-4, part.]

NOTES:

Severability--1986 c 203: See note following RCW 15.17.245.

RCW 15.24.080 Research, advertising, and educational campaign.

The commission shall provide for and conduct a comprehensive and extensive research, advertising and educational campaign as continuous as the crop, sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of the markets and extent to which public convenience and necessity require research and advertising to be conducted. [1961 c 11 § 15.24.080. Prior: 1937 c 195 § 13, part; RRS § 2874-13, part.]

RCW 15.24.085 Promotional printing not restricted by public printer laws.

The restrictive provisions of chapter 43.78 RCW shall not apply to promotional printing and literature for the Washington state apple advertising commission, the Washington state fruit commission, or the Washington state dairy products commission. [1961 c 11 § 15.24.085. Prior: 1953 c 222 § 1.]

RCW 15.24.086 Promotional printing contracts--Contractual conditions of employment.

All such printing contracts provided for in this section and RCW 15.24.085 shall be executed and performed under conditions of employment which shall substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and the violation of such provision of any contract shall be ground for cancellation thereof. [1994 c 164 § 1; 1973 1st ex.s. c 154 § 20; 1961 c 11 § 15.24.086. Prior: 1953 c 222 § 2.]

NOTES:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 15.24.090 Increase in assessments--Grounds--Procedure.

If it appears from investigation by the commission that the revenue from the assessment levied on fresh apples under this chapter is inadequate to accomplish the purposes of this chapter, the commission shall adopt a resolution setting forth the necessities of the industry, the extent and probable cost of the required research, market promotion, and advertising, the extent of public convenience, interest, and necessity, and probable revenue from the assessment levied. It shall thereupon increase the assessment to a sum determined by the commission to be necessary for those purposes based upon a rate per one hundred pounds of apples, gross billing weight, shipped in bulk, container, or any style of package. An increase becomes effective sixty days after the resolution is adopted or on any other date provided for in the resolution, but shall be first referred by the commission to a referendum mail ballot by the apple growers of this state conducted under the supervision of the director and be approved by a majority of the growers voting on it and also be approved by voting growers who operate more than fifty percent of the acreage voted in the same election. After the mail ballot, if favorable to the increase, the commission shall nevertheless exercise its independent judgment and discretion as to whether or not to approve the increase. [1983 c 95 § 1; 1979 c 20 § 1; 1967 c 240 § 27; 1963 c 145 § 6; 1961 c 11 § 15.24.090. Prior: 1953 c 43 § 1; 1937 c 195 § 13, part; RRS § 2874-13, part.]

RCW 15.24.100 Assessments levied.

There is hereby levied upon all fresh apples grown annually in this state, and all apples packed as Washington apples, an assessment of twelve cents on each one hundred pounds gross billing weight, plus such annual increases thereof as are imposed pursuant to the provisions of RCW 15.24.090. All moneys collected hereunder shall be expended to effectuate the purpose and objects of this chapter. [1967 c 240 § 28; 1963 c 145 § 7; 1961 c 11 § 15.24.100. Prior: 1937 c 195 § 9; RRS § 2874-9.]

RCW 15.24.110 Collection--Due date--Stamps.

The assessments on fresh apples shall be paid, or provision made therefor satisfactory to the commission, prior to shipment, and no fresh apples shall be carried, transported, or shipped by any person or by any carrier, railroad, truck, boat, or other conveyance until the assessment has been paid or provision made therefor satisfactory to the commission.

The commission shall by rule or regulation prescribe the method of collection, and for that purpose may require stamps to be known as "apple advertising stamps" to be purchased from the commission and attached to the containers, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets. [1967 c 240 § 29; 1961 c 11 § 15.24.110. Prior: 1937 c 195 § 12; RRS § 2874-12.]

RCW 15.24.120 Records kept by dealers, handlers, processors.

Each dealer, handler, and processor shall keep a complete and accurate record of all apples handled, shipped, or processed by him. This record shall be in such form and contain such information as the commission may by rule or regulation prescribe, and shall be preserved for a period of two years, and be subject to inspection at any time upon demand of the commission or its agents. [1961 c 11 § 15.24.120. Prior: 1937 c 195 § 10; RRS § 2874-10.]

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RCW 15.24.130 Returns rendered by dealers, handlers, processors.

Each dealer, handler, and processor shall at such times as the commission may by rule or regulation require, file with the commission a return under oath on forms to be furnished by the commission, stating the quantity of apples handled, shipped, or processed by him during the period prescribed by the commission. The return shall contain such further information as the commission may require. [1961 c 11 § 15.24.130. Prior: 1937 c 195 § 11; RRS § 2874-11.]

RCW 15.24.140 Right to inspect.

The commission may inspect the premises and records of any carrier, handler, dealer, or processor for the purpose of enforcing this chapter and the collection of the excise tax. [1961 c 11 § 15.24.140. Prior: 1937 c 195 § 19; RRS § 2874-19.]

RCW 15.24.150 Treasurer--Bond--Duties--Funds.

The commission shall appoint a treasurer who shall file with it a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the state, in the penal sum of fifty thousand dollars, conditioned upon the faithful performance of his duties and strict accounting of all funds of the commission.

All money received by the commission, or any other state official from the assessment herein levied, shall be paid to the treasurer, deposited in such banks as the commission may designate, and disbursed by order of the commission. None of the provisions of RCW 43.01.050 shall apply to money collected under this chapter. [1961 c 11 § 15.24.150. Prior: 1937 c 195 § 6; RRS § 2874-6.]

RCW 15.24.160 Promotional plans--Cooperation of commission.

The commission may employ, designate as agent, act in concert with, and enter into contracts with any person, council, or commission for the purpose of promoting the general welfare of the apple industry and particularly for the purpose of assisting in the sale and distribution of apples in domestic or foreign commerce, and expend its funds or such portion thereof as it may deem necessary or advisable for such purpose and for the purpose of paying its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of apples in domestic or foreign commerce. For such purposes it may employ and pay for legal counsel and contract and pay for other professional services. [1961 c 11 § 15.24.160. Prior: 1947 c 280 § 3; Rem. Supp. 1947 § 2909-3.]

RCW 15.24.170 Rules and regulations--Filing--Publication.

Rules, regulations, and orders made by the commission shall be filed with the director and published in a legal newspaper in the cities of Wenatchee and Yakima within five days after being made, and shall become effective pursuant to the provisions of RCW 34.05.040. [1975 1st ex.s. c 7 § 37; 1961 c 11 § 15.24.170. Prior: 1937 c 195 § 18; RRS § 2874-18.]

RCW 15.24.180 Enforcement.

All county and state law enforcement officers and all employees and agents of the department shall enforce this chapter. [1961 c 11 § 15.24.180. Prior: 1937 c 195 § 16; RRS § 2874-16.]

RCW 15.24.190 Claims enforceable against commission assets--Nonliability of other persons and entities--Exception.

Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission, and no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof, or against any member, employee, or agent of the commission in his or her individual capacity. Except as otherwise provided in this chapter, neither the members of the commission nor its employees may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, save for their own individual acts of dishonesty or crime. No such person or employee may be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint, and no member is liable for the default of any other member. [1987 c 393 § 4; 1961 c 11 § 15.24.190. Prior: 1937 c 195 § 7; RRS § 2874-7.]

RCW 15.24.200 Penalties.

Any person who violates or aids in the violation of any provision of this chapter shall be guilty of a gross misdemeanor, and any person who violates or aids in the violation of any rule or regulation of the commission shall be guilty of a misdemeanor. [1961 c 11 § 15.24.200. Prior: 1937 c 195 § 14; RRS § 2874-14.]

RCW 15.24.210 Prosecutions.

Any prosecution brought under this chapter may be instituted in any county in which the defendant or any defendant resides, or in which the violation was committed, or in which the defendant or any defendant has his principal place of business.

The superior courts are hereby vested with jurisdiction to enforce the provisions of this chapter and the rules and regulations of the commission issued hereunder, and to prevent and restrain violations thereof. [1961 c 11 § 15.24.210. Prior: 1937 c 195 § 15; RRS § 2874-15.]

RCW 15.24.800 Financing assistance for commission building.

The legislature hereby finds that, in order to permit the Washington state apple advertising commission to accomplish more efficiently its important public purposes, as enumerated in chapter 15.24 RCW, it is necessary for the state to assist in financing a new building for the commission, to be located on Euclid Avenue in Chelan county, and housing commission offices, warehouse space, and a display room. The state's assistance shall augment approximately five hundred thousand dollars in commission funds which will be applied directly to the payment of the costs of this project. The state's assistance shall be in the amount of eight hundred thousand dollars, or so much thereof as may be required, to be provided from the proceeds from the sale and issuance of general obligation bonds of the state, the principal of and interest on which shall be reimbursed to the state treasury by the commission from revenues derived from the assessments levied pursuant to chapter 15.24 RCW and other sources. [1987 c 6 § 1.]

NOTES:

Severability--1987 c 6: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 6 § 12.]

RCW 15.24.802 General obligation bonds to fund commission building.

For the purpose of providing part of the funds necessary for the Washington state apple advertising commission to undertake a capital project consisting of the land acquisition for, and the design, construction, furnishing, and equipping of, the building described in RCW 15.24.800, and to pay the administrative costs of such project, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, and other expenses incidental to the administration of such project, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred thousand dollars, or so much thereof as may be required. [1987 c 6 § 2.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.804 Bond issuance and sale.

The bonds authorized in RCW 15.24.802 shall be issued and sold in accordance with the provisions of chapter 39.42 RCW. [1987 c 6 § 3.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.806 Bond proceeds, etc., to state building construction account.

The proceeds from the sale of the bonds authorized in RCW 15.24.802, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the Washington state apple advertising commission may direct the state treasurer to deposit therein, shall be deposited in the state building construction account in the state treasury. [1987 c 6 § 4.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.808 Expenditure of bond proceeds.

Subject to legislative appropriation, all proceeds from the sale of the bonds authorized in RCW 15.24.802 shall be administered and expended by the Washington state apple advertising commission exclusively for the purposes specified in RCW 15.24.802. [1987 c 6 § 5.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.810 Fund for payment of bond principal and interest.

The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized to be issued under RCW 15.24.802. The state finance committee may provide for the creation of one or more separate accounts in such fund to facilitate payment of such principal and interest.

On or before June 30 of each year, the state finance committee shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest on such bonds coming due in accordance with the provisions of the bond proceedings. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, the amount certified by the state finance committee to be due on the payment date. [1987 c 6 § 6.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

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RCW 15.24.812 Certification and payment of bond principal and interest.

On or before June 30 of each year, the state finance committee shall certify to the Washington state apple advertising commission the principal and interest payments determined under RCW 15.24.810, exclusive of deposit interest credit, attributable to the bonds issued under RCW 15.24.802. On each date on which any interest or principal and interest payment is due, the commission shall cause the amount certified by the state finance committee to be due on such date to be paid out of the commission's general fund to the state treasurer for deposit into the general fund of the state treasury. [1987 c 6 § 7.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.814 RCW 15.24.810 and 15.24.812not exclusive method of payment.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 15.24.802, and RCW 15.24.810 and 15.24.812 shall not be deemed to provide an exclusive method for the payment of such principal and interest. [1987 c 6 § 8.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.816 Bonds constitute legal investments for state and other public funds.

The bonds authorized by RCW 15.24.802 shall constitute legal investments for all state funds or for funds under state control and all funds of any other public body. [1987 c 6 § 9.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.818 Bonds to be issued only aftercertification of sufficiency of funds.

The bonds authorized by RCW 15.24.802 shall be issued only after the treasurer of the Washington state apple advertising commission has certified that the net proceeds of the bonds, together with all money to be made available by the commission for the purposes described in RCW 15.24.802, shall be sufficient for such purposes; and also that, based upon the treasurer's estimates of future income from assessments levied pursuant to chapter 15.24 RCW and other sources, an adequate balance will be maintained in the commission's general fund to enable the commission to meet the requirements of RCW 15.24.812 during the life of the bonds to be issued. [1987 c 6 § 10.]

NOTES:

Severability--1987 c 6: See note following RCW 15.24.800.

RCW 15.24.900 Purpose of chapter.

This chapter is passed:

(1) In the exercise of the police power of the state to protect the public health, to prevent fraudulent practices, to promote the welfare of the state, and to stabilize and protect the apple industry of the state;

(2) Because the apple crop grown in Washington comprises one of the major agricultural crops of Washington, and that therefore the business of selling and distributing such crop and the expanding and protection of its market is of public interest;

(3) Because it is necessary and expedient to enhance the reputation of Washington apples in domestic and foreign markets;

(4) Because it is necessary to discover the health giving qualities and food and dietetic value of Washington apples, and to spread that knowledge throughout the world in order to increase the consumption of Washington apples;

(5) Because Washington grown apples are handicapped by high freight rates in competition with eastern and foreign grown apples in the markets of the world, and this disadvantage can only be overcome by education and advertising;

(6) Because the stabilizing of the apple industry, the enlarging of its markets, and the increasing of the consumption of apples are necessary to assure the payment of taxes to the state and its subdivisions, to alleviate unemployment within the state, and increase wages for agricultural labor;

(7) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only apples of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution to increase the amount secured by the producer therefor, so that they can pay higher wages and pay their taxes, and by such information to reduce the cost of distribution so that the spread between the cost to the consumer and the amount received by the producer will be reduced to the minimum absolutely necessary;

(8) To protect the general public by educating it in reference to the various varieties and grades of Washington apples, the time to use and consume each variety, and the uses to which each variety should be put. [1961 c 11 § 15.24.900. Prior: 1937 c 195 § 1; RRS § 2874-1.]

RCW 15.24.910 Liberal construction.

This chapter shall be liberally construed. [1961 c 11 § 15.24.910. Prior: 1937 c 195 § 17; RRS § 2874-17.]

Commission Meeting, September 10, 1998
Apple Commission, Wenatchee, Washington

*MOVED by Bellamy, seconded by Keller, and unanimously approved THAT the minutes of the August 13, 1998, meeting be approved as mailed to commissioners.

*MOVED by Olsen, seconded by Smithson, and unanimously approved THAT two commissioners attend the1999 Invitational Leadership Symposium on January 14-17, 1999, sponsored by the Producing Marketing Association, the Packer and Cornell University to be held in Dallas Texas.

*MOVED by Lundberg, seconded by Bellamy, and unanimously approved THAT Marianne Pariseau LeSage and Mark Holtzinger be appointed to serve on the Northwest Horticultural Council Science Advisory Committee for two-year terms.

*MOVED by Grim, seconded by Olsen and unanimously approved THAT the Operations Committee report be approved as presented to recommend a Promotional Hosting Budget of $307,200 for 98-99, a Capital Budget of $134.122 for 98-99, an Operating Budget of $45,776,816 including an addition of $14 million to Consumer Advertising for 98-99 and the financial report for the period ending August 31, 1998.

MINUTES OF THE MEETING

OF THE

WASHINGTON APPLE COMMISSION

September 10, 1998

A special meeting of the Washington Apple Commission was convened by Chairman Kershaw at 9:00 a.m. at the Apple Commission in Wenatchee, Washington.

Present were:

Commissioners-	Ed Kershaw, Chairman
	Bruce Grim, Vice Chairman
	Glady Bellamy
	Tom Carnevali
	Jim Fleming
	Dick Keller
	Loren Horsley
	Larry Lundberg
	Larry Olsen
	Dick Smithson
	Richard Thomason
Not Present-	Dan Cox
	Don Weippert
Staff-	Steve Lutz
	Jean Ashby
	La Verne Bergstrom
	Ed Brooks
	Jim Doherty
	Pat Drake
	Deb Hartl
	Tom Swearingen
	Jim Thomas
McCann-Erickson-	Sarah Makar
	Scott Lee
	Sheryl Hudson
	Jim Walker
	Ed Cotton

Chairman Kershaw introduce guests Geraldine Warner from The Packer, Sherry Wyatt and Peter Verbrugge from the Washington Apple Education Foundation, Debra Scott, and Stan Bostrom and Tex Reed from Jack Frost/Marley.

Chairman Kershaw adjourned the meeting to call an Executive Session at 9:10 a.m.

Chairman Kershaw reconvened the special meeting at 10 a.m.

Chairman Kershaw said congratulations to the staff and commissioners for all their hard work on the successful assessment election. For the past two or three months Steve Lutz made a hugh commitment to getting out the message to the growers.

*MOVED by Bellamy, seconded by Keller, and unanimously approved THAT the minutes of the August 13, 1998, meeting be approved as mailed to commissioners.

ADVERTISING COMMITTEE REPORT

Olsen reported that the Advertising Committee met yesterday and reviewed plans for the upcoming campaign. McCann presented the challenge for this year as generating substantial increases in Washington apple consumption and growing the apple category within an efficient time frame. To prepare for this, a modular research process was followed with each stage contributing to the next stage in the process of targeting and motivating consumers.

To increase consumption, advertising must change the approach to the consumer from the rational experience to the emotional experience. Advertising musts include centering on the apple, leveraging the "pleasure cues," making people think about apples in new ways, and making apples engaging and fun.

Objectives for the additional $14 million in advertising assessment are to increase consumption by 15-30 percent in 20 markets that do 33 % of the domestic business; create and sustain awareness across the entire year; and reach all potential apple consumers more often, with greater impact and effectiveness. The goal is to have the interim advertisements on the air by October 26, 1998. The new ad campaign will be on the air by February 1, 1999.

Doherty said that the new campaign idea would be very compatible with retail. Thomas said it would also be useful for public relations. Bellamy said the key to the success of the new campaign is to get the right person to play the part.

Olsen said that an Industry Evaluation Committee will be formed to monitor the effectiveness of the new advertising campaign. The purpose of the committee is to give industry groups the opportunity to participate in reviewing the effectiveness of the campaign. Decisions will need to be made about expectations for the coming year and how to measure success.

WASHINGTON APPLE EDUCATION FOUNDATION

Peter Verbrugge, Chairman of the Washington Apple Education Foundation Board, presented his perspective as a Wapato grower of the importance of the Foundation. He said what he liked about the Foundation is that his donation can be a budgeted amount each year that he knows will benefit the apple community and reflects the goodwill intended by the apple industry. There is now about $500,000 available for scholarships and programs.

Sherrye Wyatt, Executive Director of the Foundation, outlined the programs of the Foundation, including scholarships, nutrition education, industry education; fundraising and operations. She said there are two more years left of support from the Apple Commission, which has been greatly needed and appreciated.

OTHER BUSINESS

Leadership Symposium

Lutz said he would recommend sending two people to the 1999 Leadership Symposium sponsored by PMA, The Packer and Cornell University to be held in Dallas on January 14-17.

*MOVED by Olsen, seconded by Smithson, and unanimously approved THAT two commissioners attend the1999 Invitational Leadership Symposium on January 14-17, 1999, sponsored by the Producing Marketing Association, the Packer and Cornell University to be held in Dallas, Texas.

NHC Science Advisory Committee

*MOVED by Lundberg, seconded by Bellamy, and unanimously approved THAT Marianne Pariseau LeSage and Mark Holtzinger be appointed to serve on the Northwest Horticultural Council Science Advisory Committee for two-year terms.

Kershaw said that we should consider a replacement on the NHC board to replace Don Heinicke, who is a retired commissioner from the Apple Commission.

PMA Convention and Plans

Brooks proposed a cruise at PMA in New Orleans to provide an opportunity for Washington State apple shippers and Latin American importers to meet in a social setting. Commissioners agreed.

Hort Convention Sponsorship

Lutz said that Monday afternoon during the Hort Convention the Apple Commission will finance a marketing session that will not have competition from other sessions. The theme will be the consumer.

Travel Calendar/Meeting Dates
Lutz said that he is planning a meeting in early February 1999 that will provide an occasion for commissioners and staff to discuss current industry issues such as consolidation of organization and avoiding duplication with the industry. He has asked Bill Bishop of Willard Bishop Consulting to facilitate that meeting because he is familiar with retail and he facilitates other share groups. The location for the meeting may be either Sun Mountain Lodge or Skamania on the Columbia River.

US APPLE ASSOCIATION TRUSTEE REPORT

Olsen reported on the August marketing meeting of the US Apple Association held in Chicago this year. He reported that the US Apple Association is becoming more professional in pulling together growers and the industry all over the U.S. He said it is an advantage that Kraig Naasz is the new President because he is so familiar with the apple industry. Key issues discussed at the meeting were the Fruit Quality Protection Act, pesticide use, and the guest worker program.

DEPARTMENT UPDATES

Latin America
Brooks said the crisis in Russia is affecting the value of the money in Latin America, especially currency in Brazil and Venezuela. Columbia and Ecuador have recently devalued their currency also creating some concerns. However, we will continue our programs as planned.

Communications Update
Thomas reported that 60,000 to 70,000 people participated in the Apple Commission sponsored Asian Arts Festival in Hong Kong this year. To allow Washington State growers the opportunity to see such a festival and other attractions in Asia, the Washington AgriNews and Carlson Wagonlit Travel have put together the Asian AgriMarket Tour to Hong Kong and Singapore in January. The cost is about $2200 per person and includes airfare, hotels and some meals.

Best Practices
Doherty reported on the success of the fall marketing plan. Execution of the plan went well. The "Hot" ad program was well received by the trade. Tier pricing was targeted and we found about 80 percent of the retailers were already using the program. Auxiliary displays are the main tool to drive the apple category and we were very successful in getting more commitments on bins and ½ bins.

Ashby presented the new power point presentation designed to follow the Best Practices manual and to be used with retailers. Lutz said the fieldstaff can taylor the presentation to fit individual retailer profiles.

Lutz reported that four of our fieldstaff, Perrett, Alvaro, Buszuwski (Eastern Canada), and Russell (Western Canada), are also working for the cherry growers. They feel it is a real advantage to work both cherries and apples at the same time. This trial program has been very successful.

OPERATIONS COMMITTEE REPORT

Grim gave the report of the Operations Committee, which included review of the financial report for the period ending August 31, 1998, the proposed 1998-99 budgets for promotional hosting, the capital budget, and the operations budget for this year. (See attached.)

*MOVED by Grim, seconded by Olsen and unanimously approved THAT the Operations Committee report be approved as presented to recommend a Promotional Hosting Budget of $307,200 for 98-99, a Capital Budget of $134,122 for 98-99, an Operating Budget of $45,776,816 including an addition of $14 million to Consumer Advertising for 98-99 and the financial report for the period ending August 31, 1998.

Lutz reported that the Apple Commission received a clean state auditor this summer. We were last audited by the state four years ago.

CROP UPDATE

Kershaw gave the crop update by the U.S. Apple Association for 1998-99. Forecast for this year for the United States is 264,803,000 boxes of which 145,238,000 boxes are from Washington State.

There being no further business before the board, the meeting was adjourned.

_____
Secretary-Treasurer/President

ATTEST:

_____

Washington Apple Commission

1998-99 Capital Budget
Account #1310

		Budgeted	Spent	Balance	Check #
Administrative/Operations					
	LCD Projector (1024x768)	$ 6,500.00		$ 6,500.00	
Retail					
	4 Cars	$ 73,647.00		$ 73,647.00	
	3 Notebook Computers	$ 9,000.00		$ 9,000.00	
	Ten By Ten Presentation Booth	$ 6,000.00		$ 6,000.00	
	2 Toshiba CD ROM Drives	$ 875.00		$ 875.00	
Communications					
	1 Laptop	$ 3,000.00		$ 3,000.00	
	1 Desktop Computer	$ 2,500.00		$ 2,500.00	
Computing Svcs					
	24 Port Fast Ethernet Switch	$ 4,500.00		$ 4,500.00	
	Disk Expansion for RAID Array	$ 2,100.00		$ 2,100.00	
	External NT Server	$ 4,500.00		$ 4,500.00	
	Enterprise Fax System	$ 11,500.00		$ 11,500.00	
Miscellaneous		$ 10,000.00		$ 10,000.00	
	Total	**$ 134,122.00**	**$ -**	**$ 134,122.00**	

9899capb.xls

	Budgeted	Actual Spent
1997-1998	$ 210,155.00	$ 176,580.33
1996-1997	$ 188,860.00	$ 188,854.00
1995-1996	$ 154,825.00	$ 147,977.00
1994-1995	$ 121,900.00	$ 119,268.00

At the present time, any capital item exceeding $300 must be pre-approved as part of this budget. We propose raising this amount to $500 effective this year.

WASHINGTON APPLE COMMISSION
PROMOTIONAL HOSTING BUDGET
1998-99 SEASON

September 1, 1998

		1998-99 BUDGETED	1998-99 YTD SPENT	1998-99 AMT REMAINING
ADVERTISING				
5020-adv-500-900	Travel	1,000		1,000
RETAIL				
5020-mkt-500-XXX	Travel	30,000		30,000
5100-mkt-500-900	Meetings	65,000		65,000
PROMOTIONS				
5170-prom-XXX-500	Promotions	4,000		4,000
Foodservice				
5020-fds-500-XXX	Travel	15,000		15,000
5210-fds-500-900	Special Events	5,000		5,000
Export				
5020-exp-500-XXX	Travel	25,000		25,000
5210-exp-500-XXX	Promotions	70,000		70,000
5260-exp-500-XXX	Sales Meetings	64,000		64,000
Communication				
5020-com-500-XXX	Travel	7,000		7,000
Interpretive Center				
5020-int-500-900	Travel	200		200
Commission Mtg				
5100-cmtg-500-900	Meetings	13,000		13,000
Administrative				
5020-adt-500-900	Travel	4,000		4,000
5390-adt-500-900	Miscellaneous	2,500		2,500
5340-pro-500-900	Recruiting	1,000		1,000
INFORMATION SYM				
5020-INF-500-900	Travel	500		500
		307,200	0	307,200

WASHINGTON APPLE COMMISSION

September 10, 1998 Worksheet 1998-99 Budget	1998-99 Previously Proposed 107,500	Additional Assessment	1998-99 Proposed
REVENUE	99,500		99,500
3,750 Cars @ 244.50	24,327,750		916,875
95,750 Cars @ 392.00			37,534,000
Approved Working Capital	3,795,000		3,795,000
Interest Income	150,000		150,000
Gain on Sale of Assets			
Franchise Royalties	2,500		2,500
Store Income	2,500		2,500
Other Income	2,500		2,500
	28,280,250		42,403,375
MAP Funds	3,373,441		3,373,441
	31,653,691		45,776,816
EXPENSES			
ADVERTISING			
5010 Salaries/Benefits	100,000		100,000
5020 Travel	40,000		40,000
5130 Research	100,000		100,000
5164 Production - Consumer	550,000	1,001,454	1,551,454
5166 Production - Trade	50,000		50,000
5167 Media - Radio	3,000,000	6,500,000	9,500,000
5168 Media - Television	3,000,000	6,500,000	9,500,000
5169 Advertising - Trade	100,000		100,000
5174 Media - Outdoor	0		0
5390 Miscellaneous	60,000		60,000
	7,000,000	14,001,454	21,001,454
MARKETING			
5010 Salaries/Benefits	1,850,000		1,850,000
5020 Travel	455,000		455,000
5030 Supplies	8,000		8,000
5040 Postage	67,000		67,000
5050 Telephone/Fax	80,000		80,000
5060 Auto Expense	130,000		130,000
5090 Training	55,000		55,000
5100 Meetings	75,000		75,000
5120 Apples	29,000		29,000
5130 Research - Mkting	154,000		154,000
5131 Research - Cat. Mgmt.	235,000		235,000
5140 Publication	100,000		100,000
5150 Category Management	380,000		380,000
5300 Equip Replace Reserve	6,000		6,000
5163 Retail Contractor	85,000		85,000
5390 Miscellaneous	30,000		30,000
	3,739,000		3,739,000

SPECIAL PROMOTION		
5170-511 Incentives-Trade	900,000	900,000
5170-512 Incentives-Consumer	1,211,728	1,211,728
5170-513 Demonstration	300,000	300,000
5170-515 Corporate Program	900,000	900,000
5170-517 Canadian Promo	100,000	100,000
5170-519 Division Opport	150,000	150,000.
5170-520 New Markets	265,000	265,000.
5170-522 Promotions/Misc.	55,000	55,000
5170-523 Trips	225,000	225,000
5170-524 POS Material	280,000	280,000
	4,386,728	4,386,728
CONVENTIONS		
5180 Exhibits	40,000	40,000
5181 Conventions	45,000	45,000
5182 Promos/Health Check	22,000	22,000
5183 Misc Registrations	5,000	5,000
5390 Miscellaneous	5,000	5,000
	117,000	117,000
FOODSERVICE		
5010 Salaries/Benefits	498,000	498,000
5020 Travel	220,000	220,000
5030 Supplies	5,000	5,000
5040 Postage	70,000	70,000
5050 Telephone/Fax	30,000	30,000
5110 Display Material	150,000	150,000
5120 Apples	3,000	3,000
5130 Research	50,000	50,000
5140 Publication	100,000	100,000
5141 Direct Mail	20,000	20,000
5162 Production/Advertising	20,000	20,000
5170 Promotions	700,000	700,000
5181 Conventions	30,000	30,000
5190 Contract Fees	122,000	122,000
5210 Special Events	5,000	5,000
5230 Recipe Development	20,000	20,000
5300 Replacement Reserve	1,000	1,000
5358 Media	50,000	50,000
5390 Miscellaneous	5,000	5,000
	2,099,000	2,099,000
EXPORT		
5010 Salaries/Benefits	260,000	260,000
5020 Travel	224,354	224,354
5040 Postage	15,000	15,000
5050 Telephone/Fax	30,000	30,000
5110 Display Material	655,200	655,200
5130 Research/Evaluation	230,000	230,000

5165 Consumer Advertising	2,354,441	2,354,441
5172 Trade Advertising	59,000	59,000
5173 Trade Promotions	566,500	566,500
5175 Consumer Promotion	997,200	998,200
5190 Contract Fees	666,850	665,850
5208 Spot Markets	70,000	70,000
5210 Special Events	70,000	70,000
5220 Merchandising	840,000	840,000
5250 Industry Tours	45,000	45,000
5280 Sales Meeting	64,000	64,000
5390 Miscellaneous	20,000	20,000
	7,167,545	7,167,545
COMMUNICATIONS		
5010 Salaries/Benefits	190,000	190,000
5020 Travel	80,000	80,000
5040 Postage	75,000	75,000
5050 Telephone/Fax	7,000	7,000
5110 Display Material	30,000	30,000
5200 PR - Domestic	485,000	485,000
5201 PR - International	197,000	197,000
5210 Special Events	31,000	31,000
5241 Food Service	40,000	40,000
5242 Food Publicity	110,000	110,000
5390 Mis Expenses	116,000	116,000
	1,361,000	1,361,000
WANS		
5010 Salaries/Benefits	70,000	70,000
5020 Travel	10,000	10,000
5040 Postage	5,000	5,000
5050 Telephone/Fax	1,000	1,000
5140 Publication	22,000	22,000
5167 Media-Radio	27,000	27,000
5168 Media-Television	78,000	78,000
5176 Internet	30,000	30,000
5190 Contract Fees	144,000	144,000
	387,000	387,000
5388 WANS Subscriber Fund	-148,000	-148,000
TOTAL	239,000	239,000
SHIPPING		
5010 Salaries/Benefits	163,000	163,000
5030 Supplies	21,000	21,000
	184,000	184,000
INTERPRETIVE CENTER		
5010 Salaries/Benefits	63,700	63,700
5020 Travel	3,000	3,000
5025 Display Maint.	200	200
5050 Telephone/Fax	120	120
5080 Housing/Rent	32,865	32,865
5110 Display	22,325	22,325

5160 Advertising	24,500	24,500
5170 Promotions	2,200	2,200
5210 Special Events	4,000	4,000
5390 Miscellaneous	1,700	1,700
5389 WSFC Reimbursement	-36,000	-36,000
	118,610	118,610
PROFESSIONAL SERVICES		
5030 Supplies	40,000	40,000
5040 Postage	25,000	25,000
5070 Subscriptions/Dues	21,000	21,000
5090 Training	100,000	100,000
5190 Contract Fees	20,000	20,000
5270 Accounting	20,000	20,000
5280 Legal	75,000	75,000
5290 Insurance	58,000	58,000
5340 Recruiting	23,500	23,500
5390 Miscellaneous	3,500	3,500
	386,000	386,000
DEPRECIATION, INTEREST, TAXES		
5300 Replacement Reserve	88,000	88,000
5301 Auto Depreciation	10,000	10,000
5310 Taxes	3,000	3,000
	101,000	101,000
FACILITY COSTS		
5330 Building Repair/Maint.	17,000	17,000
5331 Equip. Repair/Maint.	25,000	25,000
5332 Utilities	4,500	4,500
5334 Power	9,000	9,000
5335 Janitorial	17,000	17,000
5336 Bldg. Maj. Repair Res	5,000	5,000
5337 Security	1,000	1,000
5338 Gardening	9,000	9,000
5339 Mortgage	67,800	67,800
5390 Miscellaneous	7,500	7,500
	162,800	162,800
COMMUNICATION		
5050 Telephone/Fax	50,000	50,000
5350 Referendum/Election	8,000	8,000
	58,000	58,000
COMMISSION MEETING	75,000	75,000
5100 Meetings	75,000	75,000
ADMINISTRATIVE SALARIES/B	600,000	600,000
5010 Salaries/Benefits	600,000	600,000

ADMINISTRATIVE TRAVEL			
5060 Auto Expenses	16,000		16,000
5355 Commercial Carriers	20,000		20,000
5356 Lodging	12,000		12,000
5357 Meals	6,000		6,000
5390 Miscellaneous	6,000		6,000
	60,000		60,000
REVENUE COLLECTION			
5010 Salaries/Benefits	27,000		27,000
5030 Supplies	1,500		1,500
5360 Collection Services	21,000		21,000
5390 Miscellaneous	500		500
	50,000		50,000
INDUSTRY ORGANIZATIONS			
5370 Northwest Horticulture	457,203		457,203
5371 USAA	517,143		517,143
5385 WA ED Foundation	60,000		60,000
5390 Miscellaneous	20,000		20,000
	1,054,346		1,054,346
INFORMATION SYSTEMS			
5010 Salaries/Benefits	120,000		120,000
5020 Travel	3,000		3,000
5181 Conventions			
5190 Contract Fees	10,000		10,000
5380 Computer Software	75,000		75,000
5390 Miscellaneous	20,000		20,000
	228,000		228,000
TOTAL EXPENSES	29,187,029	14,001,454	43,188,483
5430 Working Capital	2,466,662		2,588,333
5450 UNALLOCATED			
TOTAL	31,653,691		45,776,816

* Dues

Commission Meeting August 13, 1998
Doubletree Inn, Yakima, Washington

*MOVED by Bellamy, seconded by Fleming, and unanimously approved THAT the minutes of the June 11, 1998, meeting be approved as mailed to the commissioners.

*MOVED by Keller, seconded by Horsley, and unanimously approved THAT the minutes of the July 24, 1998, meeting be approved as mailed to commissioners.

*MOVED by Lundberg, seconded by Bellamy and unanimously approved THAT the financial report for the period ending July 31, 1998, and the budget adjustments be accepted as recommended by the Operations Committee.

*MOVED by Bellamy, seconded by Fleming and unanimously approved THAT the expenses for the month ending July 31, 1998, be accepted as presented.

*MOVED by Fleming, seconded by Horsely, and unanimously approved THAT the contract for 1998-99 for our current Granny Smith, Joan Phillips, be accepted as presented.

*MOVED by Cox, seconded by Fleming and unanimously approved THAT the assessment to the Northwest Horticultural Council for 98-99 in the amount of $455,203 be approved.

*MOVED by Fleming, seconded by Keller, and unanimously approved THAT the assessment to the United States Apple Association for 98-99 in the amount of $499,048 based on a five-year average be accepted.

MINUTES OF THE MEETING

OF THE

WASHINGTON APPLE COMMISSION

August 13, 1998

A special meeting of the Washington Apple Commission was convened by Chairman Kershaw at 9:30 a.m. at the Doubletree Inn, Yakima, Washington.

Present were:

Commissioners-	Ed Kershaw, Chairman
	Glady Bellamy
	Tom Carnevali
	Dan Cox
	Jim Fleming
	Dick Keller
	Loren Horsley
	Larry Lundberg
	Larry Olsen
	Dick Smithson

Not Present were:

	Bruce Grim
	Richard Thomason
	Don Weippert
Staff-	Steve Lutz
	Jean Ashby
	La Verne Bergstrom
	Kevin Bredesen
	Ed Brooks
	Jim Doherty
	Pat Drake
	Kay Francis
	Deb Hartl
	Terry Elwell
	Tom Swearingen
	Jim Thomas
Ex-Officio-	Rebecca Baerveldt De Macias
McCann-Erickson-	Mary Sue Humphreys
	Sarah Makar

*MOVED by Bellamy, seconded by Fleming, and unanimously approved THAT the minutes of the June 11, 1998, meeting be approved as mailed to the commissioners.

*MOVED by Keller, seconded by Horsley, and unanimously approved THAT the minutes of the July 24, 1998, meeting be approved as mailed to commissioners.

Chairman Kershaw introduced guest Lowell Lancaster, Chairman of the Washington State Horticultural Association, who reported on the joint board meeting between the Washington Hort Association and the Washington Apple Commission. Lancaster said there had been a meeting in June between the board to discuss fruit quality and the assessment increase in an effort to see how the two boards could work together. As a result of that meeting other meetings were held with the WSDA Inspection office with regard to fruit quality, soluble solids, release dates and standards for the 12-pound pressure rule. Results from a survey on fruit quality will be discussed by the Grade and Pack Committee of the Hort Association at a meeting on August 27. Lutz said Vicky Scharlau, President of the Hort Association, asked him to bring research on fruit quality to that August meeting.

Lutz told Lancaster that the Apple Commission is committed to developing seminars to inform growers about market conditions at the upcoming Hort Convention in December 1998.

Kershaw asked Lancaster to visit the Apple Commission board meeting on regular basis to keep us informed.

Kershaw introduced guest Dr. Mike Willett of the Northwest Horticultural Council.

CATEGORY MANAGEMENT/BEST PRACTICES

Ashby said the category management database contains data from 40 major retailers, over 3,000 stores, and over 4,000 apple promotions. From this database a set of learnings has been developed to inform retailers on growing the category. Ashby gave an overview of the best practices, which contains information on assortment materials, pricing, and promotions and merchandising.

Lutz said regional managers have been asked to target two accounts and Ashby will assist in the implementation of "best practices." The fall promotion will be structured around the collected category management information.

Research Committee Report

Carnevali gave the report of the Research Committee explaining that this year regional managers will be conducting in-store quality audits on apples. This involves evaluating both internal and external characteristics such as bruising, stem puncture, discoloring, color, pressure and sugar. The regional managers will rate the apples on a point system

and accumulate data that will be sent back to the office. They will also be talking to consumer and evaluating retailers. The plan is to purchase apples in a store in their local market area and in one store when they are out on the road.

Lundberg asked that we be careful what we bring back to the industry and how it is interpreted.

EXPORT MARKETING COMMITTEE REPORT

Bellamy said the Export Marketing Committee reviewed the plans for export and the Latin American program. He said they had cautiously estimated doing 30 million boxes in export next year. He also said they had encouraged more communications between the Export Advisory Committee and the Apple Commission export staff. They also suggested doing a program in Thailand and spending more money in Russia.

Elwell said that spot market item on his budget is to provide flexibility when unplanned opportunities arise. This is WAC money so it can be used quickly, without the same restrictions as FAS money. Total budget for Export is $7,414,000, compared with $5,066,300 last year. Lutz said if we cut export, we will be giving back federal dollars as well. Elwell said moving 25 percent of the total crop into export is realistic.

Bellamy said the Export Marketing Committee recommends approval of the Export and Latin American budget for 98-99.

Latin American Program and Budget

Brooks said he added $250,000 to the budget for Latin America to increase consumer awareness and expects a good year for 98-99. Central America has made strides in building cold storage, refrigerated displays and trucks, and stronger economies. A good example of that is El Salvador, which has experienced economic growth and took 200,000 boxes of apples this year.

Trip Report

Brooks reported on a recent trip to Mexico where he was joined by Rebecca Baerveldt De Macias, WSDA. Importers of Washington apples said they felt the trade agreement between Washington State and Mexico could be re-negotiated to improve our position. The Mexican apple crop is down 50 percent from last year. Chilean fruit has been of inconsistent quality and appearance.

Kershaw said we should not count too much on what importers say, because they have very little influence with the Mexican government with regard to trade agreements. Lutz said maybe the Export Committee could discuss the issue of a second-tier price point that would go into effect in January.

Brooks said we compete with Argentina for fruit sales in Brazil. James Thompson has held eight or nine care and handling training seminars in Brazil during the month of August.

COMMUNICATIONS PROGRAM AND BUDGET 98-99

Thomas reported that for 1998-99, domestic public relations programs are Search for Granny Smith (which has increased 40 percent over last year), Lunch Box Derby (which includes 18 retail partners), and Golden Opportunity (a new nation-wide contest that challenges amateur filmmakers to make a two-minute home movie that stars our Golden Delicious apple).

The Washington Agri-News Service (WANS) is now a separate program with a separate set of books. It is likely that we will clear $100,000 in income for sales of radio, television and Internet. The program is sponsored by Abbott Labs and is seen in Wenatchee, Yakima, and the Tri-Cities. In September it will also be aired on Saturday.

Thomas said the new Web Master, Greg Bennett has been hired at the Apple Commission.

WANS Committee Report

Lundberg said the WANS Committee reviewed the plans for 98-99. He suggested the Applegram change its format to a weekly publication that included more timely market news. He also reported that the Committee approved putting Applegram on hold until a new publication avenue could be explored.

OPERATIONS COMMITTEE REPORT

Fleming presented the Operations Committee report which included review of the financial report for the previous month, budget adjustment, state audit, administration budget, visitor center report, and gift shop report.

*MOVED by Lundberg, seconded by Bellamy and unanimously approved THAT the financial report for the period ending July 31, 1998, and the budget adjustments be accepted as recommended by the Operations Committee.

Lutz said we are regularly audited by the state. There were no findings, no management letters, and only a few suggestions for changing or improving procedures that the state auditor will follow-up on during their next audit. All suggested procedure changes have already or will be implemented. Kershaw complimented Accounting Director Pat Drake and her staff for a clean audit.

*MOVED by Bellamy, seconded by Fleming and unanimously approved THAT the expenses for the month ending July 31, 1998, be accepted as presented.

Lundberg asked if it would be possible to get a list of all out-of-state travel by staff and commissioners. Commissioners will be added to the present travel calendar.

*MOVED by Fleming, seconded by Horsely, and unanimously approved THAT the contract for 1998-99 for our current Granny Smith, Joan Phillips, be accepted as presented.

Lutz said the Operations Committee asked Hartl and Francis to develop a plan to drive sales in the Gift Shop at the Apple Commission.

DOMESTIC MARKETING COMMITTEE REPORT

Keller reported that the Domestic Marketing Committee reviewed promotion plans and the biggest issue was whether or not to trim the budget for the second quarter because of the crop size.

Lutz said he would recommend to the staff to begin thinking about changing the budget for 98-99 from 107.5 million boxes to 100 million boxes. The decision to change the budget base will be made at the September board meeting.

Storage Report

Doherty said there are 5 million boxes of apples left in storage in the state, most of which are Red Delicious. Boxes shipped as of August 1 were 74.5 million. Total indicated crop is 79.6 million boxes.

The estimated crop for 98-99, according to the Yakima Valley Growers-Shippers report, is 103.7 million boxes. The Shipper Advisory Boards felt that estimate was accurate, but the crop could grow in size depending on weather.

VIP Trips

Doherty said about 20 VIPs (retail and foodservice) will be coming to Washington State in early October for tours of the Wenatchee, Yakima and Chelan growing areas. Only one VIP trip will be held this year.

Fall Programs

Doherty said fall promotional programs include account mailings to small retailers for ad support and wholesalers/jobbers to promote Red and Golden Delicious, a tie-in with the 5-a-Day week with retailers, and a Big Red Boat cruise which is a consumer drawing and in-store display contest.

Swearingen said McCann-Erickson won a bronze award at the Clio Awards in May for our radio commercials. The Clio Awards are advertising industry awards and are considered one of the most prestigious advertising awards in the United States.

Kershaw asked if we are doing much video advertising at the retail level. Doherty said the in-store video idea was hot, but it has disintegrated because consumers are annoyed with hearing the same things over and over again. However, if there are account opportunities we will take advantage of them and use our current demo tapes.

OTHER BUSINESS

Northwest Horticultural Council Appointments and Funding
Kershaw said he would be contacting our representatives on the NHC Science Advisory Committee to see if they would like to continue to serve on that committee. Decisions would be made at the next board meeting.

Dr. Mike Willett, Northwest Horticultural Council Technical Issues Manager, said that both Marianne LeSage and Mark Holtzinger, Apple Commission representatives on the NHC Science Advisory Committee, have been active on the committee. The Science Advisory Committee was set up to assist Dr. Wally Ewart with industry direction on science policy with regard to pesticide priorities and they, in turn, make recommendations to the board of trustees.

*MOVED by Cox, seconded by Fleming and unanimously approved THAT the assessment to the Northwest Horticultural Council for 98-99 in the amount of $455,203 be approved.

US Apple Association Funding
Lutz said our funding to the US Apple Association is half of their budget and it will be a good investment with Kraig Naasz as their new president.

Kershaw said USAA is well organized and they are going to be doing lots of projects for the good of the apple industry.

*MOVED by Fleming, seconded by Keller, and unanimously approved THAT the assessment to the United States Apple Association for 98-99 in the amount of $499,048 based on a five-year average be accepted.

Tree Fruit Research Commission Appointments
Kershaw said WAC will start the process to advertise positions on the board of the Tree Fruit Research Commission. The current incumbents, Doyle Fleming and Hermann Thoennissen, will be contacted to see if they wish to continue.

Legal Update
Lutz presented a summary of the current legal activities. With regard to the issue of the phrase "World's Finest" being used by the World's Finest Chocolate Company, we will be signing a settlement soon. The Fruitca organization in Costa Rica, and Paquime and Teyssier both in Mexico have agreed to discontinue use of their similar logos. Interfruver of Chihuahua, Mexico has agreed to discontinue manufacture of boxes using a Chihuahua

logo copying ours. Lacuesta of Mexico has refused to terminate use of a similar logo, therefore, infringement claims will be filed against them. Registration of WAC's trademark in Chile has been opposed, so legal counsel is preparing a reply. The Montague Company of Australia has signed a settlement agreement. In the situation in Taiwan with regard to the counterfeit apple originating from Mainland China, successful anti-counterfeiting activities were enforced by the customs authorities. Preparations are being made to address the same problems should they occur this fall.

Foodservice Update

Bredesen gave an update of the current activities in Foodservice. Promotions for this fall are with Marie Callender's (165 units), Bumpers Drive-in (36 units), 7-11 (835 units), Shoney's (844 units), Eastside Mario's Restaurant (35 units), and Promark (26 broadline distributors). Other promotions that are possibilities, but not finalized, are Quizno's Sub Sandwiches, Outback Steakhouse, and Alliant. He also presented samples of creative to be used in the fall such as Goldie Doll flyer, recipies, baseball cards and the latest issue of the ASAP for schools.

Bredesen said questionnaires have been sent to the top 200 chain restaurants in America to determine promotional needs. Information will be used to customize promotions, develop and provide new recipes and create incentives and offer training to chefs and waitstaff.

There being no further business before the board, the meeting was adjourned.

_____
Secretary-Treasurer/President

ATTEST:

_____

A copy of the articles of incorporation of Minnesota Fruit Growers Association, later named the Minnesota Apple Growers Association. It was first incorporated June 27, 1933 and the name change was January 31, 1979. The original is very difficult to read so hopefully this is accurate.

ARTICLES OF INCORPORATION of MINNESOTA FRUIT GROWERS ASSOCIATION

We, the undersigned, for the purpose of forming a corporation for educational and scientific purposes under and pursuant to the provisions of Chapter fifty-eight (58), General Statutes 1923, and laws amendatory thereof and supplementary thereto, do hereby associate ourselves together as a body corporate and adopt the following Certificate of Incorporation:

ARTICLE I

Section 1. The name of this corporation shall be Minnesota Fruit Growers Association.

Section 2. The general nature of its business shall be to promote and encourage the orderly and efficient production, distribution, and sale of Minnesota fruit and fruit products.

Section 3. Its general purpose and plan of operation shall be to gather information relating to the production, distribution, and sale of fruit and fruit products for the mutual benefit of its members; to represent the interests of Minnesota fruit growers in any matters pertaining to the welfare of the fruit growing industry of Minnesota.

Section 4. The principal place of transacting the business of this corporation shall be in the city of St. Paul, County of Ramsey, State of Minnesota.

ARTICLE II

Section 1. The time for the commencement of this corporation shall be the twenty-seventh day of June 1933, and the period of its duration shall be perpetual.

ARTICLE III

Section 1. The names and places of residence of the persons forming this corporation:

Name	Address
Fred Blomberg	Deerwood, Minnesota
Benjamin F. Dunn	Rochester, Minnesota
Felix F. Isaacs	White Bear Lake, Minn.
Sil Matzke	South St. Paul, Minn.
W. H. Stout	Champlin, Minnesota
Fred Ulrich	Rochester, Minnesota
James D. Winter	St.Paul, Minnesota

ARTICLE IV

Section 1. The management of this corporation shall be vested in a Board of Directors composed of not less than nine and not more than fifteen members.The names and addresses of the first Board of Directors are:

Name	Address
Fred Blomberg	Deerwood, Minnesota
Louis Bundy	Winona, "
Lloyd Downing	St. Charles, "
Benjamin F. Dunn	Rochester, "
Henry P. Hansen	Albert Lea, "
Felix F. Isaacs	White bear Lake, Minnesota
Sil Matzke	South St. Paul, "
August Schwarz	La Crescent, "
W. M. Stout	Champlin, "
Earl R. Thayer	Eveleth, "
Fred Ulrich	Rochester, "
J. D. Winter	St. Paul, "

Section 2. The officers of this corporation shall consist of a President, a Vice President, an Executive Secretary and a Treasurer. Any office except that of president and vice president may be held by one person. The first officers of this organization shall be:
President. Benjamin F. Dunn
Vice-president. Fred Ulrich
Executive Secretary and Treasurer. James D. Winter

All of the above named officers and directors shall hold their respective offices aforesaid until the first annual meeting of the corporation to be held at 10:00 A.M. on Monday, October 2nd, 1933 at which time and annually thereafter a Board of Directors shall be elected from and by the membership of this corporation. Of the first elected Board of Directors one-third shall be elected for one year, one-third shall be elected for two years, and one-third shall be elected for three years. Thereafter each director shall be elected for a period of three years.

Section 4. Immediately after the first election of directors, or as soon thereafter as practicable and in each alternate year following, the directors shall meet and elect from their number a president and a vice-president, and from their number or otherwise an executive secretary and a treasurer.

Section 5. The directors and officers of this corporation shall hold their respective office until their successors have been duly elected and have entered upon the discharge of their duties.

Section 6. There shall be an annual meeting of the members of this corporation which shall be held at its principal place of business in St. Paul, Minnesota on the first Monday in October at 10:00 A.M. in each year.

ARTICLE V

Section 1. The terms of membership in this corporation shall be as follows: Any person who is a producer or grower of fruit shall be eligible to membership.

Section 2. The amount of the annual dues required to be paid by each member shall be not less than two dollars nor more than five dollars.

Section 3. This corporation shall have no capital stock and shall not be conducted for pecuniary profit.

ARTICLE VI

Section 1. The highest amount of indebtedness or liability to which this corporation shall at any time be subject shall be the sum of two hundred and fifty ($250.00) dollars.

IN TESTIMONY WHEREOF, We have hereunto set our hands and seals this 27th day of June, 1933.

Signatures of Benjamin F. Dunn
Fred Ulrich
James D. Winter
Fred Blomberg
Felix F. Isaacs
Sil Matzke
W. H. Stout

STATE OF MINNESOTA)
) ss.
County of Ramsey)

On this 27th day of June 1933 personnally appeared before me Benjamin F. Dunn, Fred Ulrich, James D. Winter, Fred Blomberg, Felix F. Isaacs, Sil Matzke, and W.H. Stout

to me known to be the persons named in and who executed the Certificate of Incorporation and each acknowledged that he executed the same as his free act and deed, for the uses and purposes therein expressed.

Signature of: Mildred R. Hillson
Notary Public

1742-N4

Z-49,202

CERTIFICATE OF AMENDMENT OF
ARTICLES OF INCORPORATION OF
MINNESOTA FRUIT GROWERS ASSOCIATION

We, the undersigned, Arthur Jacobson and Gordon Yates, respectively the president and secretary of Minnesota Fruit Growers Association, a corporation subject to the provisions of Chapter 317, Minnesota Statutes, do hereby certify that at a Special Meeting of the members of said corporation, notice of such meeting, proposal to amend and nature of such proposal having been mailed to each member entitled to vote thereon at least ten days prior to such meeting, held at LaCrescent, Minnesota, as designated in such notice, on the 11th day of January, 1979, resolutions as hereinafter set forth were adopted by a unanimous vote of said members represented in person or by proxy:

"Resolved that Article I of the Articles of Incorporation of Minnesota Fruit Growers Association be, and the same hereby is amended to read as follows:

ARTICLE I

The name of the corporation is Minnesota Apple Growers Association.

Resolved further that the president and secretary of this corporation be and they hereby are, authorized and directed to make, execute and acknowledge a certificate embracing the foregoing resolutions, and to cause such certificate to be filed for record in the manner required by law."

IN WITNESS WHEREOF, we have subscribed our names this

Z-49 203

31st day of January, 1979.

In presence of

Joyce M. Ray — Arthur Jacobson — President

Gordon Yates — Secretary

(NO SEAL)

STATE OF MINNESOTA }
COUNTY OF HENNEPIN } SS.

Arthur Jacobson and Gordon Yates, being first duly sworn, on oath, depose and say: that they are respectively the president and secretary of Minnesota Fruit Growers Association the corporation named in the foregoing certificate; that said certificate contains a true statement of the action of the members and board of directors of said corporation, duly held as aforesaid; that said certificate is executed on behalf of said corporation, by its express authority; and they further acknowledge the same to be their free act and deed and the free act and deed of said corporation.

Arthur Jacobson — President

Gordon Yates — Secretary

Subscribed and sworn to before me this 31st day of January, 1979.

Joyce M. Ray

JOYCE M. RAY
Hennepin County
Notary Public, Minnesota
My Commission Expires Nov. 18, 1980

STATE OF MINNESOTA
DEPARTMENT OF STATE
I hereby certify that the within instrument was filed for record in this office on the 2 day of [illegible] A. D. 19 22, at [illegible] o'clock [illegible] and was duly recorded in Book [illegible] of Incorporations, on page [illegible]
[illegible]
Secretary of State

Minnesota Apple Growers Association
Incorporated

Board of Directors Meeting
Tuesday January 5, 1999
Radisson Hotel La Crosse, WI.

Meeting called to order at 7:04pm by President Brian Nelson.

Board members Stan Mork and Chuck Bremer were absent.
Also present: Julia Stewart Daly, Sam Blue, Richard Gagne and Harry Hoch.

The minutes of the last Board Meeting of November 19, 1998 were read by Secretary Yates. M/S by Courtier/Jacobson to approve the minutes as read.

Treasurer Ross Nelson gave the Treasurer's Report. Total assets as of November 30,1998 are $20,089.56. This compares to a figure of $22,607.38 as reported one year ago in November of 1997. Treasurer Nelson explained that the MAGA lost just over $1700 in the operation of the Winter Convention and the Summer Tour in 1998. He also stated that the U.S. Apple Association had billed us for $4369.00 in dues as opposed to the $2400.00 we had expected and for which we had budgeted. Guest Julia Stewart Daly, Director of Communications for the U.S. Apple Association, told the Board that she would seek an explanation for the billing. M/S by Jacobson/Van Lin to approve the financial report as read.

Sam Blue gave an update on the Minnesota Grown program. The program will be working this year with a budget of some $280,000. He told the Board that, as always, he appreciated its input and that he looked to it to give him some sense of direction.

John Jacobson reported on the Scab Hotline. Linda Treeful will continue to be involved with the project.

Richard Gagne presented to the Board two samples for the proposed MAGA newsletter. M/S by Yates/Buehler that Gagne be authorized to edit a quarterly newsletter on a one-year trial basis and that he be compensated with a free membership in the MAGA. Motion carried. President Nelson appointed a committee consisting of himself, John Jacobson and Ralph Yates to work with Gagne.

Treasurer Ross Nelson steered the Board through a worksheet to determine the 1999 MAGA budget. Highlights of the budget discussion included continued questions about the ERM Research Project and the AURI grant that was channeled through the MAGA to the Minnesota Department of Agriculture. MAGA and U.S. Apple Association Board member Bernie Buehler was authorized to donate $500.00 - upon yearly review - to the U.S.A.A. in support of specific apple initiatives. M/S by Gosi/ Leadholm that the 1999 MAGA budget - with anticipation of slightly more than $20,000.00 in revenue and expenses - be approved. Motion

Minnesota Apple Growers Association
Incorporated

carried.

President Brian Nelson appointed Sam Blue, Joe Gosi and John Leadholm to a nominating committee to bring nominations for the Board of Directors before the general membership at its annual meeting.

Future Board meeting dates were set for Lake City on March 4, June 3 and November 18, 1999 and for La Crosse on January 4, 2000.

The Board noted with sadness the passing of Robert Carlson, long-time Executive Secretary of the International Dwarf Fruit Tree Association.

There being no further business to come before the Board, it was M/S by Courtier/Jacobson that the Board recess at 8:18pm and reconvene after the Annual Membership meeting.

The Board of Directors reconvened the next day at 5:33pm. The following officers were elected to one-year terms: John Leadholm, President; Chuck Bremer, Vice-President; Ross Nelson, Treasurer; and Ralph Yates, Secretary.

Respectfully Submitted,
Ralph Yates, Secretary

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June 1, 1999

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: Advisory Opinion Request – U.S. Apple Association Political Action Committee

Dear Commissioners:

This advisory opinion request is submitted on behalf of the U.S. Apple Association Political Action Committee ("USApple PAC"), FEC identification number C00344945. Two issues are submitted for your consideration.

1. Trade Association Federation.

The U.S. Apple Association is a non-stock membership corporation organized under the laws of the District of Columbia. The Association operates on a not for profit basis.

The Association's bylaws (copy attached), at Article III, Section 1, sets forth four membership categories as follows:

1. U.S. and foreign state and regional associations of producers participating collectively and representatively for the producers of each state or region of apple production.

2. U.S. and foreign individuals, partnerships, corporations, cooperatives and other business entities primarily engaged in preparing for market or marketing fruits and fruit products.

3. U.S. and foreign individuals, partnerships, corporations, cooperatives and other entities engaged in a business associated with the fruit industry.

4. U.S. and foreign professional persons associated with government, educational and research institutions, and other associations.

As a preliminary matter, with respect to each of the membership categories and for each of the two issues addressed in this AOR, USApple PAC will neither solicit foreign individuals or entities or accept foreign individuals or entities as members or participants in USApple PAC.

The first issue relates to the first membership category, namely "U.S state ... and regional associations of producers participating collectively and representatively for the producers of each state or region of apple production."

By way of background, this membership category consists generally of associations of apple producers set up under state law, known commonly as "state marketing orders." The producer members pay dues to their state or regional associations who in turn, pay dues to the U.S. Apple Association.

USApple PAC respectfully requests confirmation that under this arrangement the U.S. Apple Association is a "federation of trade associations" for purposes of the Commission's regulations at 11 C.F.R. section 114.8(g).

Under those regulations a federation of trade associations is "an organization representing trade associations involved in the same or allied lines of commerce." The U.S. Apple Association is in effect the national organization representing state and regional trade associations in the apple producing industry. These organizations are linked by common commercial interests as well as through their dues structure.

USApple PAC intends, if the Commission confirms our understanding that it qualifies as a federation of trade associations, to conduct solicitations of the members of its state and regional members in accordance with the procedures and limitations at 11 C.F.R. section 114.8(g) and understands that any political committees maintained or controlled by those members will be treated as a single committee with USApple PAC for purposes of the Commission's rules on affiliation.

2. Membership.

Given the current state of uncertainty relative to the Commission's rules regarding the definition of "member" for solicitation purposes by an association, USApple PAC requests guidance regarding whether the membership categories in its bylaws describe members for purposes of the Federal Election Campaign Act.

The first category, described above, consists of state and regional associations of apple producers. Members in that category pay dues under a formula based on average apple production in the local state or region (Article IX, Section 1), and are entitled to one representative who "may cast its votes at all Association meetings on such matters as may be brought before the membership for a vote." Bylaws Section 2(a). Among the items

voted on at Association meetings is the composition of the Board of Trustees, which is the Association's highest governing body. Regional members elect half (15) of the members of the Board of Trustees. Bylaws Article IV, Section 4. We ask that you confirm that this category satisfies the membership definition under the Commission's existing regulations at 11 C.F.R. section 114.1(e)(2).

The second category consists of "U.S. ... individuals and partnerships, corporations, cooperatives and other business entities primarily engaged in preparing for market or marketing fruits and fruit products." Bylaws Article III, Section 1(b). These members pay regular dues according to a schedule determined by the Board of Trustees of the Association, Bylaws Article IX, Section 2, and elect half (15) of the members of the Association's Board of Trustees, its highest governing body. Bylaws Article IV, Section 2. We ask you to confirm that this category also satisfies the membership definition under the Commission's existing regulations.

The third membership category consists of "U.S. ... individuals, partnerships, corporations, cooperatives and other entities engaged in a business associated with the fruit industry." Members in this category pay regular dues as determined by the Board of Trustees, Bylaws Article IX, Section 2, but do not have voting rights.

The fourth membership category consists of "U.S. ... professional persons associated with government, educational and research institutions, and other associations. As in the case of the previously described category, this group pays regular dues as established by the Board of Trustees but do not have voting rights.

While these two categories appear not to satisfy the Commission's current membership definition, we respectfully ask that you rule them to be members using the standards set forth in the Commission's most recent proposed membership definitions. 63 Fed.Reg. 69224 (December 16, 1998). Under that formulation, these members meet the defintion because they: (1) meet the Assocation's membership requirements; (2) affirmatively accept an invitation to become a member before joining; (3) affirm their membership on an annual basis; and (4) pay on a regular basis a specific amount of dues.

We submit that there is a strong public policy in support of finding that these two categories should be treated as members. Besides requiring that they affirmatively acknowledge and renew their membership and pay regular dues, the entities and individuals described in these categories clearly are engaged in the lines of commerce of the Association generally. If the proposed regulations were adopted in their most recent form, they would clearly qualify as members.

We are grateful for your consideration of these requests, and would be pleased to submit any additional or supplementary information that might be needed as you consider a response.

Sincerely

Evan M. Migdail

Cc: Kraig Naasz
Treasurer, USApple PAC

BYLAWS
U.S. APPLE ASSOCIATION

Adopted June 23, 1970
Amended June 26, 1972
Amended November 15, 1975
Amended July 12, 1985
Amended June 18, 1986
Amended November 14, 1986
Amended June 27, 1987
Amended November 19, 1988
Amended March 13, 1994
Amended April 18, 1996
Amended August 22, 1996
Amended August 23, 1997

ARTICLE I - NAME

The name of this association shall be U.S. Apple Association.

ARTICLE II - PURPOSE

Section 1. The Association shall be a non-stock membership corporation organized under the laws of the District of Columbia. It shall conduct its business for the mutual benefit of its members and without profit to itself.

Section 2. The purposes of the Association shall be to encourage and promote:

(a) The best interests of its members and of the apple industry.

(b) The consumption of apples and apple products.

(c) The legal and ethical exchange of information among its members.

(d) The formation and recommendation of sound practices, standards, regulations and legislation.

(e) High standards of business ethics and conduct.

(f) Research and education in production and marketing affecting the apple industry.

(g) The best interest of the fruit industry through cooperative and joint effort to common ends with other industries and organizations.

(h) Any other lawful association activities which shall be consistent with the public interest as well as in the interest of the apple industry and trade.

ARTICLE III - MEMBERSHIP

Section 1. The Association shall be comprised of the following:

(a) U.S. and foreign state and regional associations of producers participating collectively and representatively for the producers of each state or region of apple production.

(b) U.S. and foreign individuals, partnerships, corporations, cooperatives and other business entities primarily engaged in preparing for market or marketing fruits and fruit products.

(c) U.S. and foreign individuals, partnerships, corporations, cooperatives and other entities engaged in a business associated with the fruit industry.

(d) U.S. and foreign professional persons associated with government, educational and research institutions, and other associations.

Section 2. Member voting rights shall be as follows:

(a) Each member association described in Section 1(a) of this Article shall be entitled to one Representative who may cast its votes at all Association meetings on such matters as may be brought before the membership for a vote. Each such member shall be entitled to one additional Representative and vote for each five million bushels of production represented or major fraction thereof above five million bushels, which shall be based on average production during the immediately preceding five years, as determined from published reports by the recognized governmental reporting agencies. Forty-two pounds shall be the applicable weight per bushel.

(b) Those members described above in Section 1(b) of this Article shall have the right to vote on such matters as shall be set forth hereafter in these Bylaws.

(c) Those members described above in Section 1(c) and (d) of this Article shall not have voting rights.

Section 3. Membership applications.

(a) Applications for membership shall be directed to the President.

(b) Applications for membership as provided Section 1(a) of this Article shall include name of applicant organization, names and addresses of elected and appointed officers, name of principal employed secretary or manager where applicable and address of the principal office of the organization.

(c) Applications for membership as provided for in Section 1(b), (c), and (d) of this Article shall include name of individual or organization, name of principal officers of the organization, designation of the type of business conducted by the organization or profession of the individual applicant, and check to cover the first year's dues where applicable.

(d) All applications for membership shall be subject to approval by the Board of Trustees.

Section 4. Upon change of ownership or proprietary personnel of a member, the successor may apply for transfer of membership. If the eligibility of the applicant is found satisfactory, the Board of Trustees shall allow such transfer.

ARTICLE IV - BOARD OF TRUSTEES

Section 1. The "Board of Trustees" is the "Board of Directors" referred to in the Corporation's Charter and in the Election To Accept the 1962 District of Columbia Non-Profit Corporation Act.

Section 2. The Board of Trustees shall normally consist of thirty (30) members, divided into two (2) equal groups. One group of Regional Trustees shall be elected at the Annual Meeting by those Representatives described in Article III, Section 2, (a) and shall serve three year terms. The other group of Regular Trustees shall be elected by the members described in Article III, Section 1, (b) and shall serve three year terms. At each Annual Meeting, one-third of the Regional and one-third of the Regular Trustees shall be elected for terms of three years to fill the vacancies on the Board of Trustees occurring because of the expiration of terms of office. All elected Trustees shall be dues-paying members of the Association.

Section 3. The Immediate Past Chairman shall be an ex officio member of the Board. He* may exercise the right to vote only to break a tie vote of the Board.

Section 4. Regional Trustees shall be elected by and from among the Representatives based on apportionment as determined by the Board of Trustees. This apportionment should be based on relative production and financial participation of the established apple-producing districts. In the event of full financial participation from each district, apportionment should be as follows:

(a) Member associations representing producers in the states of Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island, New York and New Jersey shall comprise District No. 1 and shall be entitled to three Trustees.

(b) Member associations representing producers in the states of Pennsylvania, Virginia, Maryland, Delaware, North Carolina, South Carolina, Georgia and Tennessee shall comprise District No. 2 and shall be entitled to three Trustees.

(c) Member associations representing producers in the states of Michigan, Wisconsin, Minnesota, Iowa, Illinois, Indiana, Ohio, Kentucky, Missouri, Kansas, and Arkansas shall comprise District No. 3 and shall be entitled to three Trustees.

(d) Member associations representing producers in the states of Idaho, Colorado, New Mexico, Utah, California, Arizona, and Oregon shall comprise District No. 4 and shall be entitled to one Trustee.

(e) Member associations representing producers in the state of Washington shall comprise District No. 5 and shall be entitled to five Trustees.

Section 5. Based on current financial participation in the Association, Regional Trustees are apportioned as follows:

(a) District No. 1 shall be entitled to three trustees.

(b) District No. 2 shall be entitled to three trustees.

(c) District No. 3 shall be entitled to three trustees.

(d) District No. 4 shall be entitled to one trustee

(e) District No. 5 shall be entitled to five trustees.

Section 6. In the event of changes in the relative production or financial participation within the districts, the Board of Trustees shall reapportion Trusteeships as it deems will most fairly represent the five districts. New Trusteeships as well as the assigned length of term for each Trustee shall be reasonably and equitably assigned by the Board at that time. Any reapportionment of Trusteeships shall not interrupt a term of office of any serving Trustee. To allow for reapportionment, the Board may temporarily increase the number of Regional Trustees until the expiration of the terms of office

of the serving Trustees reduces the number of representatives from each district to its new apportionment.

Section 7. At each Annual Meeting one third of the Regional Trustees shall be nominated and elected by the State and Regional Member Representatives for three year terms. Prior to the election, Representatives of the State and Regional Member Associations from each District shall caucus to nominate a replacement or replacements for their District Trustees whose term(s) is/are about to expire.

Section 8. The Chairman shall appoint a Regular Trustee Nominating Subcommittee consisting of five (5) members described in Article III, Section 1, (b) to tender nominations for the office of Regular Trustees whose terms will be expiring at the next Annual Meeting. The Subcommittee shall be appointed at least 60 days before the Annual Meeting of Members and shall be announced to the membership. The Chairman shall appoint one of the Subcommittee members Chairman of the Subcommittee.

Section 9. The Board of Trustees shall establish policies and have the general management, control and direction of all the Association's business and affairs, and of all of its trusts and undertakings, to the fullest extent permitted by law.

Section 10. The following shall not be considered exclusive or as in any way limiting the general authority of the Board as specified in Section 9 of this Article:

(a) The Board of Trustees shall have the authority to bind the Association by contract or by any written instrument and to specify, in general or in particular instances, which officers or agents of the Association shall execute such contracts or other written instruments on behalf of the Association.

(b) The Board of Trustees, acting through officers and agents of the Association, shall have authority to borrow money for any corporate purpose and to secure borrowings by the pledge or mortgage of any corporate assets to the extent permitted by law; to make all investments requiring a capital outlay; and to purchase, rent, or otherwise acquire and to sell, lease or otherwise dispose of, real and personal property or interest therein, as may be necessary or appropriate for the proper conduct of the affairs of the Association.

(c) The Board of Trustees shall satisfy itself that proper records are kept of all Association transactions, including a proper accounting system.

(d) The Board of Trustees shall have authority to prescribe particular duties of officers and agents of the Association; to fix their compensation; and to require satisfactory bonds from the Secretary-Treasurer, the President and such other officers or agents of the Association as it deems necessary.

(e) The Board of Trustees shall have authority to fill vacancies in elective offices caused by death, resignation, or inability to act.

(f) The Board of Trustees shall have authority to remove from office or discipline any officer of the Association, provided that such officer is afforded the opportunity for a fair and impartial hearing; and, provided further, that no such officer shall be removed or subjected to discipline except upon the affirmative vote of twenty-two (22) Trustees.

Section 11. Any vacancy on the Board of Trustees, occurring in the interval between Annual Meetings, may be filled by the remaining Trustees, the person so elected to hold office until the next Annual Meeting or until his successor is elected and qualified. The balance of the unexpired term, if any, shall be filled at an Annual Meeting by election in the same manner as Trustees are otherwise elected. Any interim vacancy occurring among Regional Trustees shall be filled from among qualified Representatives of the District served by the vacating Trustee.

Section 12. The Annual Meeting of the Board of Trustees shall be held each year at the location of and to coincide with the Annual Meeting of the members unless the Board shall decide otherwise. Other meetings of the Board of Trustees may be held at any time upon the call of the Chairman or any five (5) Trustees, or pursuant to the terms of a resolution adopted by the Board of Trustees. Notice of date, time and location of Board meetings shall be mailed to each Trustee at least twenty (20) days before the date of the meeting.

Section 13. A majority of the Board of Trustees shall constitute a quorum for the transaction of business. Except as provided otherwise by the laws of the District of Columbia, Certificate of Incorporation, election of the District of Columbia Code of 1962, or these bylaws, all action taken at a meeting of the Board shall require at least ten (10) affirmative votes.

Section 14. The Association shall, on an annual basis, set aside an amount equal to no less than $50,000 for the purpose of contributing to a reserve fund to be used to meet crucial needs of the apple industry resulting from unanticipated events. Said amount shall be set aside annually, and be so reflected in the budget for each year, until such time when the fund contains no less than fifty percent (50%) of the average budgeted income for the immediately preceding five-year period. The Board of Trustees shall have power to set aside to the reserve fund such additional sum or sums as it, in its absolute discretion, deems necessary and advisable and consistent with the purposes and objectives of such fund. The express approval of the Executive Committee must first be obtained before the Association can assume any obligation that will be underwritten in whole or in part by moneys from the reserve fund. A report on the reserve shall be presented to the Board of Trustees each year after the annual audit

of the reserve. The report shall provide the year-end balance of and summary of contributions to and payments from the reserve in prior years, the contributions to and payments from the reserve in the most recent year, the current balance of the reserve, and the projected contributions to, payments from, and year-end balance of the reserve for the next year. Finally, the report shall address any deviation from the reserve fund policy and, if necessary, make any and all kinds of recommendations regarding the reserve fund to the Board of Trustees.

ARTICLE V - EXECUTIVE COMMITTEE

Section 1. The Executive Committee shall consist of nine members, including the Immediate Past Chairman, Chairman, Vice Chairman and the Secretary-Treasurer of the Association. The remaining members shall be chosen by the Board of Trustees from among its members and they shall serve a term of one year.

Section 2. The Executive Committee shall be nominated for Board of Trustees approval by the Executive Committee Nominating Subcommittee composed of the three elected officers and the Immediate Past Chairman with the Vice Chairman serving as Chairman of the Subcommittee.

Section 3. The Executive Committee shall have and exercise the power of the Board of Trustees between meetings of the Board of Trustees, subject to any prior limitations established by the Board of Trustees.

Section 4. Minutes shall be kept of all Executive Committee meetings and shall be promptly circulated to the Board of Trustees.

Section 5. Any vacancy shall be filled in the manner originally provided.

Section 6. A majority of the Executive Committee shall constitute a quorum for the transaction of business.

Section 7. The Executive Committee shall meet at the call of the Chairman or at the request of five members of the Executive Committee and shall meet at the time and place designated in the call of the meeting.

ARTICLE VI - DECLARATION OF POLICY

Section 1. Responsibility for any declaration of Association policy, or endorsement or rejection of any matter on any subject of policy is reserved to the judgment and discretion of the Board of Trustees. Committees including subcommittees or individual members,

except the Executive Committee, are prohibited collectively or individually from committing the Association in any way or in any manner, without prior approval by the Board of Trustees except as specified in the approved U.S.Apple Association budget.

Section 2. Any policy matter of the Association shall require a majority vote of the entire Board of Trustees.

ARTICLE VII - OFFICERS

Section 1. The elected officers of this Association shall be a Chairman, a Vice Chairman and a Secretary-Treasurer. The Board of Trustees may appoint such other officers as it deems necessary or proper.

Section 2. The elected officers shall be elected by the Board of Trustees from among its members at an organizing meeting of the Board of Trustees to be held at the earliest possible time following the election of Trustees at each Annual Meeting of the membership.

Section 3. The elected officers shall be nominated for Board of Trustees approval by the Officer Nominating Subcommittee consisting of the Immediate Past Chairman as Chairman, and four members of the Board - two Regional and two Regular representatives - appointed by the Chairman.

Section 4. The Board of Trustees shall employ a President who shall hold office subject to its approval. The Board of Trustees shall have power to enter into a contract of employment with the President for a term of employment in excess of one year.

ARTICLE VIII - DUTIES OF OFFICERS

Section 1. The Chairman shall preside at all meetings of the Board of Trustees, Executive Committee and the membership, shall have general charge of the business of the Association and shall carry out its policies under the direction of the Board of Trustees. He shall, subject to approval of the Board, appoint members to various committees of the U.S. Apple Association established by the Board. He shall make an annual report to the membership regarding the activities of the Association.

Section 2. The Immediate Past Chairman shall have the title Immediate Past Chairman. He may vote to break tie votes when they occur in meetings of the Board of Trustees or Executive Committee. He will serve as Chairman of the Officer Nominating Subcommittee.

Section 3. It shall be the duty of the Vice Chairman to act in the absence of the Chairman including presiding at Board of Trustees and Executive Committee meetings, and to perform such other duties as the Board of Trustees may designate. He shall serve as Chairman of the Executive Committee Nominating Subcommittee.

Section 4. It shall be the duty of the President to keep all records of the Association, notify candidates for membership of their admission or rejection, register the names of all members, issue all notices required, collect all dues and assessments, and perform such other duties as may be required by the Board of Trustees. He shall have charge of the headquarters office; and shall employ and supervise, with power to discharge, employees.

Section 5. The Secretary-Treasurer shall have the responsibility of all monies of the Association. He shall see to the proper accounting of all receipts and disbursements and shall submit the books for independent audit at the end of the fiscal year of the Association. The funds and financial records in his care shall at all times be subject to verification upon the demand of the Chairman or the Board of Trustees. He shall give such bond as may be required by the Board of Trustees.

ARTICLE IX - DUES

Section 1. Dues for State and Regional Member Associations shall be based on average apple production by the state or region represented by each association. This average shall be computed each year for the immediately preceding five years as determined from published reports by the recognized governmental reporting agencies. The dues assessment per bushel of production along with the required payment periods for State and Regional Members shall be established by a two-thirds (2/3) vote of the Board of Trustees.

Section 2. Dues for members described in Article III, Section 1(b), (c), and (d), including amounts and payment periods for each membership category, shall be established by a two-thirds (2/3) vote of the Board of Trustees.

Section 3. The President shall maintain a written schedule of dues requirements for all membership categories to be furnished to members upon request.

Section 4. The financial inability of any State and Regional Member Association to fulfill the dues requirements as specified by the Board shall not necessarily prohibit membership in the Association, provided that it is the declared and demonstrated intent of such association to comply with the full dues requirements at the earliest practicable date. A two-thirds (2/3) vote by the Board of Trustees is necessary to

continue the membership rights of an association in such an instance.

Section 5. Any member, described in Article III, Section 1(b), (c), or (d) who is three months in arrears in his dues may be dropped from membership by action of the Board of Trustees within thirty days thereafter providing due notice has been given him by the President. The Board may, however, under extenuating circumstances, extend the period for payment of dues by such a member.

Section 6. A member dropped for non-payment of dues may be reinstated to membership by tendering an application for membership accompanied by the amount owed in back dues, such amount subject to modification by the Board of Trustees as it may deem wise or necessary under all the circumstances which may exist. Such application for reinstatement shall take the same course as an original application for membership.

Section 7. Members receiving special services shall pay additional fees as specified by the Board of Trustees.

Section 8. For the purpose of maintaining and enlarging the work of the Association, contributions over and above the regularly stated dues may be accepted from any member.

ARTICLE X - COMMITTEES

Section 1. The Chairman with the approval of the Board of Trustees may establish such committees and subcommittees from time to time as deemed necessary or proper.

Section 2. Action taken by committees and subcommittees shall in all instances be subject to Section 1 of Article VI (Declaration of Policy) of these Bylaws relating to limitation of responsibility and authority and restricting commitments on behalf of the Association, and in matters of policy.

Section 3. The President, at the request of the Chairman or a majority of the members of a committee or subcommittee, shall notify members of a committee or subcommittee of its meetings. The President shall designate himself or a member of the staff to act as secretary of each committee or subcommittee. If the President or a staff member is not available to serve as secretary, the Chairman shall designate a secretary. Full minutes of each meeting shall be recorded by the secretary and transmitted to the Executive Committee or the Board of Trustees as the Board of Trustees shall direct.

ARTICLE XI - MEETINGS

Section 1. The Annual Meeting of the Association shall be held in conjunction with the Annual Convention of the Association unless otherwise ordered by the Board of Trustees. The period and district in which the meeting is to be held shall be mailed to all members at least sixty (60) days prior thereto.

Section 2. Special meetings of the Association may be called by the Chairman and shall be called by the President at the written request of five (5) State and Regional Member Associations or fifty (50) regular members of the Association. Such notice shall state the purpose of the meeting and shall be mailed to all members at least twenty (20) days prior to the meeting.

Section 3. Sessions at any meeting shall be conducted in accordance with Robert's Rules of Order.

ARTICLE XII - PENALTIES AND EXPULSION

Section 1. If any member of the Association shall at any time be thought guilty of any act prejudicial to the character and interests of the Association, or contrary to the By-Laws, a written complaint thereof, setting forth with particularity the act alleged, may be submitted to the Board of Trustees by any other members. A copy of the complaint shall be served upon the member complained of at least thirty (30) days before the next meeting of the Board of Trustees, and such member shall have the right to submit a written defense and to appear in person with counsel and be heard at such meeting, and such complaint shall then be investigated. In case it shall be found by a three-fourths (3/4) vote of the Board of Trustees that the charges against the member under investigation are sustained and warrant the suspension or expulsion of such member, a resolution to that effect shall be passed and executed, and such action shall be final.

ARTICLE XIII - DURATION

Section 1. The duration of the U.S. Apple Association shall be perpetual except that it may be dissolved in the manner provided by the laws of the District of Columbia. In the event of such dissolution, the assets held by the Association shall be distributed in the manner provided in such cases by law.

ARTICLE XIV - FISCAL YEAR

Section 1. The fiscal year of the Association shall start July 1st and end June 30th.

ARTICLE XV - AMENDMENT

Section 1. These Bylaws may be amended, altered or revoked by a two-thirds (2/3) affirmative vote of the entire Board of Trustees, given thirty (30) days notice of the proposed amendment, alteration, or revocation of the Bylaws.

ARTICLE XVI - INDEMNIFICATION

Section 1. Every Trustee, officer, or employee of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Trustee, officer, or employee of the Association or any settlement thereof, whether or not he is a Trustee, officer, or employee at the time such expenses are incurred, except in such cases wherein the Trustee, officer, or employee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties. Provided, however, that in the event of a settlement the indemnification herein shall apply only when the Board of Trustees approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which each Trustee, officer, or employee may be entitled.

* No specific gender is implied throughout these Bylaws.

updated: March 30, 1998
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