Foremost among the Duties and Responsibilities of Managers and Directors of Cooperatives is to be knowledgeable of, and understand cooperatives as one of the four ways of doing business in our free competitive economy. Cooperatives are a unique form of business and directors and managers must capitalize on this uniqueness. Society has established special rules for cooperatives to follow, and directors and managers must be knowledgeable of these special rules and regulations. A cooperative is a business enterprise but at the same time is an extension of the farmers' production operation. An agricultural cooperative is a unique type of business that is organized, owned, and controlled by people who have joined together voluntarily in a contractual arrangement to provide themselves needed supplies and/or services.

The margins or losses incurred by this unique form of business belong to the user as they represent an overcharge or underpayment to users. Directors assume a fiduciary responsibility to see that the users funds are protected and returned to them as patronage refunds. Most agricultural cooperatives are chartered under state laws and operate under the same Federal and State business laws and regulations as other firms. (Banks for Cooperatives, Federal Land Banks, Production Credit Associations, and Federal Savings and Loan Associations have Federal Charters.) Directors and Managers must be knowledgeable of the statute under which the cooperative is incorporated, the cooperatives Articles of Incorporation, Bylaws, and Policies. Managers and Directors of cooperatives have a responsibility to know, understand and educate employees, members and the public about the three basic principles that distinguish cooperatives from other types of business in our free competitive economy.

1. Operations at Cost. Savings (or net margins) above costs of operation or losses incurred belong to the users not the cooperative. !/Presented by Dr. Charles H. Ingraham, Extension Economist, Business Management, The Ohio State University, Columbus, Ohio at 1978 Cooperative ManagerDirector Conference, Texas Federation of Cooperatives, Hilton Inn, McAllen, ~ Texas, March 20, 1978. -1- -2-.

2. Democratic Control Traditionally, cooperatives operate on a one member one vote basis. However, about 25% of the states permit cooperatives to be organized that allocate a limited number of votes according to the volume of business done by the member with the cooperative. /'~ ..,, .

3. Limited Return on Equity Capital Federal and State laws specify maximum interest rates of usually 8%. This ~asic principle prevents the allocation of savings or margins to investors and tends to insure that users will receive the margins generated by their cooperative. The second responsibility of Directors and Managers of Cooperatives is to have a philosophy of "What's best for farmers rather than what's best for me." DIRECTOR DEFINED "A director is one who sits on a Board of Directors of a company of corporation and who has the legal responsibility of exercising control over the officers and affairs of the company or corporation. 11!:./ "A director has a fiduciary duty to the corporation and to its stockholders to manage the affairs of the corporation in a manner which is consistent with their interests. Any breach of this fiduciary duty may subject him to personal liability to both shareholders and the corporation. 111/ Fiduciary is defined as "a person having a duty created by his undertaking ~ to act primarily for the benefit of another in matters connected with his undertaking--in the nature of a position of trust or holding confidence. 11!±../ When a member of a cooperative is elected by his fellow members to a position on the Board of Directors he faces a two-fold challenge:

(1) To represent all stockholders or members of the cooperative not just himself or only the members of his district but the total membership.

(2) He is vested by law with the responsibility to reasonably conduct the affairs of the business for the welfare of the cooperative.

This two-fold challenge to the farmer director of a cooperative is compounded and made more difficult as cooperative directors are elected democratically by members in their district. As director of the cooperative, they must base their actions on what's best for the cooperative not on what's best for ];/Law Directory, Steven Gefets, page 60. ]\_/Ibid. !±\_/Ibid., page 83. ' JfII\I -3- themselves or their neighbors. The Board of Directors is not only charged with the responsibility for exercising all the authority of the corporation, its management, the safeguarding of the cooperative's assets and the conduct of its business--the Board of Directors is in fact the only group of persons in whom this authority is vested. The acceptance of an obligation by an individual to serve as a director of his cooperative implies that he recognizes and accepts responsibility of the position, the specific responsibilities set forth in the state statute and in the cooperative's bylaws, and he agrees to discharge these responsibilities to the best of his ability. The Board of Directors is the governing body of a corporation legally created under state statutes and issued a "charter." The state statutes give the Board authority to exercise all the powers of the corporation limited only by any conditions set forth in the chartering states statute and the corporation's bylaws. Your state statute that permits the incorporation of cooperatives sets forth your responsibility by stating "The affairs of the Association shall be managed by a Board of not less than five directors, elected by the members or stockholders from their own number ."1/ The directors of cooperatives are charged with the management of the total corporation and are responsible for the acts of the principle executive officers of the corporation. Directors are responsible for the operation of the cooperative within the provisions of the law, the Bylaws, membership and marketing agreement of the. cooperative, plus all the regulations of agencies such as OSHA, EPA, SEC, IRS, etc. The Board of Directors is the governing body of a corporation.

The ultimate authority for the management of a corporation rests with the owners. The method of government of a corporation is in the nature representative and is in some respects analogous to the representative democracy with which we are familiar in the government of the United States. Members to the Board of Directors are elected by the shareholders or members and these Boards elect the officers of the corporation . ..§./ The Board of Directors are the policy-determining bodies of the corporation and are also the body which either generally or specifically authorizes ~/Chapter 1729.13, Ohio Revised Code. Section 17-1611 Kansas Corporation Statute. Chapter 8, Article 5748, Texas Revised Statutes. ~/Anderson's Ohio Corporate Desk Book, page 4. -4- business transactions. Boards of Directors are analogous to Congress. It is well established in corporate law that the corporation can act only through its Board of Directors except in the unusual situation where stockholders act by unanimous vote at a meeting and the Board of Directors subsequently ratifies the action. BOARD ACTS AS A GROUP It must always be remembered that the Board of Directors' decisions are group decisions. The Board is a group; it acts jointly as a Board. It never acts as an individual. Opinions and actions result from the contributions of all the persons making up the Board. The actions of a Board of Directors are conditioned by the background, experience, knowledge, and attitude of its collective membership. In fact, it is the abilities and the application of these abilities of the men who make up the Board of Directors that is the real decisive factor in the growth and accomplishments of any firm.

To discharge their responsibilities, directors must make certain that all their actions are within the powers conferred upon them by laws of the state in which the cooperative is incorporated, the corporation's charter, bylaws, and marketing or membership contracts. A BOARD MEMBER'S POSITION IS ONE OF TRUSTEESHIP ~ It is difficult to define all the duties of the Board of Directors. In general, it can be said that members of the Board of Directors are individually and collectively under a continuing obligation to exercise their best judgement and apply such knowledge and experience as they have in the conduct and management of the cooperative's business. Directors must use good faith and exercise the care which is commonly exercised by an ordinarily careful and prudent man under similar conditions. They must have in mind that they are trustees charged with the responsibility of dealing with the rights and properties of others. Members of the cooperative elect a director to a position of trusteeship. In effect, members legally place their financial interests in the cooperative in the hands of the elected director. The law says that directors must not take advantage of their position as director to gain profit or benefit for themselves at the expense of the cooperative. While some may interpret this to mean that a director should not receive special consideration in his dealings with the management of his cooperative, it now seems this responsibility as a director extends into the competitive economy in which his cooperative operates.

To some this means the cooperative director who accepts special price or service consideration not offered to all farmers by competitors of his cooperative may have a conflict of interest. -5- BYLAWS-GUIDELINES FOR DIRECTORS Directors must use care in directing the affairs of the cooperative to keep within the powers conferred upon them by the corporation's charter, bylaws, marketing contracts, if any, and the laws of the State. If the directors exceed their authority, neglect their responsibilities or act in violation of the provisions of the statute, their charter, bylaws, or marketing contacts, legal liability could result. Bylaws are the rules that the membership has adopted for directors to follow in their operation of the firm. Bylaws perform the same function for a director that a blueprint performs for a builder. The power to adopt bylaws resides in the stockholders or members, and they alone have the power to adopt them. Bylaws are the instructions by the owners to the directors as to how the cooperative is to be operated. The members of a corporation and its directors and officers usually are conclusively presumed to have notice of bylaws, and of what they contain and hence they are bound to them, although, as a fact they may be ignorant of them. It is advisable that directors make available to each member of the corporation a copy of the bylaws. Legal liabilities may result from a failure of officers and directors to observe bylaws.

The directors as well as the managers are in law simply agents, and agents are bound by the instruction of their principles. CO-OP DIRECTOR SPECIAL It is important that cooperative directors understand that their position as a director of their cooperative differs from that of a director for other types of business. Directors of non-cooperatives are usually the principle owners of the firm, and they may serve not only as a director of their firm but also serve as one of the executives, such as the general manager. The director of a cooperative is elected democratically without regard to his investment in the cooperative. In fact, the total investment of the president of a cooperative may be one share of membership stock. The cooperative's ownership is not controlled by the Board of Directors as the general corporation. The director of a cooperative must recognize that, except when the Board is in formal meeting, his authority is equal only to the rights and authority of any individual member of the cooperative. This applies to each director of a cooperative regardless of position he may hold on the Board. As individuals, the members of the Board of Directors of a cooperative have no authority to act for, or bind the corporation, unless they are duly elected or appointed to do so in legal meeting of the Board of Directors. Cooperatives are unique, they are people; people working together. It is the responsibility of directors to capitalize on the uniqueness of cooperatives.