

**Instruction: This is a model letter. Adapt to fit your facts and circumstances.**

<date>

<Name>  
<address>  
<address>

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Re: Corporate Operation

Dear <Name>:

As you may know, our firm serves as corporate counsel for \_\_\_\_\_ . We have been requested to provide all shareholders, directors and officers with a brief summary of some of the \_\_\_\_\_ corporate law relevant to the operation of a corporation, in order to assist them in understanding their rights and responsibilities in connection with the Corporation. It is important to remember that each shareholder may serve in several capacities (e.g. shareholder, officer and director), and may have different rights and responsibilities in each capacity. While the following is not an exhaustive corporate law, it is a basic primer.

The benefits of a corporation flow from the legal recognition of the corporation as an entity separate from its individual shareholders, directors and officers. To enjoy these benefits, the corporation must operate as a separate legal entity. As a result, the corporation must govern itself, make decisions, and take action through certain formal mechanisms.

To better understand these formal mechanisms, it is important to become familiar with the different capacities -- shareholder, director, and officer -- in which you may be acting at different times.

As shareholders, you collectively own the corporation. Shareholders do not own the business; the corporation owns the business -- all assets and all funds. Shareholder control of the corporation extends only to the election and removal of directors, amendment of the articles of incorporation and bylaws, and a few other major actions, such as dissolution, merger, sale of all the corporate assets, the making of certain loans, and the creation of new stock. These actions will be valid only if authorized by the shareholders acting as shareholders, in a properly held shareholders' meeting.

As director, you are the managers of the corporation. You make all major business decisions, such as the hiring and firing of officers, compensation of employees, payment of dividends to shareholders, contracting with other businesses, loaning or borrowing money,

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initiation of new ventures, purchase of new equipment, etc. These decisions are expressed in the form of resolutions adopted by a majority vote in a directors' meeting, and recorded in the corporate minutes. Your authority is limited by law, by the articles of incorporation, and by the bylaws, but you may amend the bylaws. Within areas over which directors have control, only those acts authorized by resolution will be considered acts of the corporation.

You should also be aware of restrictions on the manner in which directors conduct the corporation's affairs. Directors hold a great deal of power within the corporate structure. In order to protect others, both within and without the corporation, from abuse of this power, the law places certain constraints on directors' actions. Directors are held to a fiduciary standard of loyalty to the corporation. This means that in the capacity of director, and also as an individual, the director must act in the best interest of the corporation. Any conflict between the director's personal interest and the corporation's interest must be resolved in favor of the corporation. For example, a director may not individually pursue a new business opportunity if the opportunity could be pursued by the corporation and is within the corporation's line of business. Of course, a director cannot engage in a business that competes with the corporation.

The restrictions and obligations described above are also generally applicable to the officers of the corporation.

As an officer, you are an employee of the corporation. You conduct the everyday business of the corporation under the direction of the board of directors. Your acts are the acts of the corporation so long as you act within the authority given by the articles of incorporation, the bylaws, and the resolutions of the board of directors.

However, it is important to remember that as a shareholder of the corporation, you are not entitled to be employed by the corporation in any capacity whatsoever nor are you entitled to be elected to the Board of Directors, unless all shareholders have entered into a written shareholder's agreement to the contrary. Therefore, any shareholder serving as an officer of the corporation or who is employed by the corporation in some other capacity, serves at the discretion of the Board of Directors or some other person designated by the Board of Directors to handle employment decisions. In reviewing \_\_\_\_\_'s organizational minutes, signed by all shareholders and directors, the Corporation adopted a resolution authorizing the President of the Corporation to make all necessary employment decisions and to otherwise conduct the day-to-day operations of the Corporation as he deems justified and appropriate.

Generally, under \_\_\_\_\_ law, employees are deemed to be employed "at will" and may be terminated for a good reason, a wrong reason or no reason at all. Any shareholder employed by the corporation, whether as an officer or otherwise, is subject to this rule and, absent a written employment contract, may be terminated at any time, without reason or notice.

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If you have any questions regarding the above information or concerning other aspects of corporation operations, do not hesitate to call.

Very truly yours,

By:

Enclosures