BEFORE THE COMMISSIONER OF INSURANCE OF THE STATE OF KANSAS

In the Matter of)	
Nationwide Agribusiness)	
Insurance Company)	
NAIC #28223)	Docket No. 3555-SO

CONSENT ORDER

The Kansas Insurance Department ("KID") and Nationwide Agribusiness
Insurance Company ("Nationwide") wish to resolve an incident arising out of the
investigation and adjustment of a claim brought by Brothers Dairy, Inc. d/b/a Brothers
Dairy, d/b/a Devere Brothers against Nationwide's insured, Fleming Feed & Grain, Inc.
d/b/a Fleming Feed & Grain Company. Pursuant to the authority granted to the
Commissioner of Insurance ("Commissioner") by K.S.A. 40-103 *et seq.* and K.S.A. 77501 *et seq.* the Commissioner hereby agrees to the terms of this Consent Order and
accepts Nationwide's tender of payment in the amount of \$7500.00 in exchange for
dismissal of this action with prejudice.

Findings of Fact

KID and Nationwide agree to the following findings of fact:

- Nationwide Agribusiness Insurance Company ("Nationwide") located at 1100 Locust Street, Des Moines, Iowa 50391 has been authorized to transact and continuously engaged in transacting insurance business in the State of Kansas since March 28, 1975.
- 2. The Kansas Insurance Department ("KID") has jurisdiction over this matter pursuant to K.S.A. 40-103 *et seq*.

- 3. KID filed a Summary Order on May 30, 2006 asserting findings of fact and conclusions of law arising out of the investigation and adjustment of a claim brought by Brothers Dairy, Inc. d/b/a Brothers Dairy, d/b/a Devere Brothers ("Brothers") against Nationwide's insured, Fleming Feed & Grain, Inc. d/b/a Fleming Feed & Grain Company ("Fleming").
- In response to KID's allegations contained in the Summary Order,
 Nationwide filed a timely request for hearing on May 31, 2006.
- 5. KID and Nationwide jointly agree that Nationwide will pay the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) and KID will dismiss this action with prejudice.
- 6. KID acknowledges that Nationwide admits no liability whatsoever in agreeing to this Consent Order. The payment made pursuant to this agreement is in settlement of disputed claims and shall not be construed in any fashion as an admission of liability on behalf of Nationwide or as an admission that Nationwide was in any way at fault or committed any wrongful acts for the purposes of this administrative action or for the purposes of any other litigation, administrative or civil, arising out of this incident including, but not limited to, *Brothers Dairy, Inc. v. Fleming Feed & Grain, Inc.*, Cowley County District Court Case No. 05-CV-143-W.

Applicable Law

- 1. K.S.A. 77-501 et seq. The Kansas Administrative Procedures Act
- 2. K.S.A. 77-601 *et seq.* The Act for Judicial Review and Civil Enforcement of Agency Action.

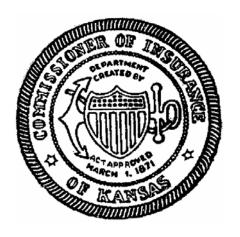
Conclusions of Law

IT IS, THEREFORE, AGREED UPON BY THE COMMISSIONER OF INSURANCE AND NATIONWIDE AGRIBUSINESS INSURANCE COMPANY:

- a. Nationwide agrees to make a payment of Seven Thousand Five Hundred Dollars (\$7,500) to KID in exchange for the dismissal of this action with prejudice.
- b. KID acknowledges that Nationwide admits no liability whatsoever in agreeing to this Consent Order. The payment made pursuant to this agreement is in settlement of disputed claims and shall not be construed in any fashion as an admission of liability on behalf of Nationwide or as an admission that Nationwide was in any way at fault or committed any wrongful acts for the purposes of this administrative action or for the purposes of any other litigation, administrative or civil, arising out of this incident including, but not limited to, *Brothers Dairy, Inc. v. Fleming Feed & Grain, Inc.*, Cowley County District Court Case No. 05-CV-143-W.
- c. The fact of this payment, the settlement negotiations between KID and Nationwide and the entry of this Consent Order shall not be admissible in evidence in any respect in *Brothers Dairy*, *Inc.* v. *Fleming Feed* &

- Grain, Inc., Cowley County District Court Case No. 05-CV-143-W.
- d. Upon the entry of this Consent Order this action shall be dismissed with prejudice. None of the findings of fact, conclusions of law or orders contained in KID's Summary Order filed May 30, 2006 are deemed binding or effective since no hearing was conducted in the matter to find facts.
- e. The entry of this Consent Order is based upon a strict compromise of disputed issues between KID and Nationwide and may not be used as evidence in any other proceeding.
- f. Nationwide shall deliver, within twenty (20) days of the entry of this Order, the sum of Seven Thousand Five Hundred Dollars (\$7,500) to Zachary Anshutz, KID Staff Attorney, on behalf of the Kansas Insurance Department.
- g. If payment is not made as required, KID may vacate and/or declare this Consent Order void and proceed with a hearing.

IT IS SO ORDERED THIS _14th_ DAY OF AUGUST, 2006, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Sandy Praeger Commissioner of Insurance

By:_/s/ John W. Campbell_____ John W. Campbell General Counsel

Nationwide	Agribusiness	Insurance
Company		

By:_/s/ Craig Blumreich	
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Certificate of Service

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing Consent Order on this _14th_ day of August, 2006, by placing the same in the United States Mail, first class postage prepaid, addressed to the following:

Craig C. Blumreich Gehrt & Roberts, Chartered 5601 SW Barrington Court South Topeka, Kansas 66604-0306 Attorney for Nationwide

NOTICE OF RIGHTS

Nationwide Agribusiness Insurance Company ("Nationwide") is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Nationwide desires a hearing, the company must file a written request for a hearing with:

John W. Campbell, General Counsel Kansas Insurance Department 420 S.W. 9th Street Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Nationwide requests a hearing, the Kansas Insurance Department will notify the company of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same.

If a hearing is not requested in the time and manner stated above, this Consent Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-613. In the event Nationwide files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel Kansas Insurance Department 420 S.W. 9th Street Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing Notice on this _14th_ day of August, 2006, by placing the same in the United States Mail, first class postage prepaid, addressed to the following:

Craig C. Blumreich Gehrt & Roberts, Chartered 5601 SW Barrington Court South Topeka, Kansas 66604-0306 Attorney for Nationwide

> _/s/ Zachary J.C. Anshutz_____ Zachary J.C. Anshutz Staff Attorney