

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11
RCN CORPORATION, et al., : Case No. 04-13638 (RDD)
: :
Debtors. : (Jointly Administered)
-----X

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

TIRZAH GORDON, being duly sworn, deposes and says:

1. I am over the age of eighteen years and employed by Bankruptcy Services LLC, 757 Third Avenue, New York, New York and I am not a party to the above-captioned action.
2. On March 28, 2005, I caused to be served true and correct copies of the "Objection of Reorganized RCN To Creditor Debra K. Craig's Motion for Limited Relief From Plan Injunction" dated March 28, 2005, a copy of which is attached hereto as Exhibit "A", enclosed securely in separate, postage pre-paid envelopes, to be delivered by first class mail to the parties listed on the annexed Exhibit "B" and by overnight courier to the party listed on the attached Exhibit "C".


Tirzah Gordon

Sworn to before me this
29th day of March, 2005


Notary Public

MARIAH TIFFANY MARTIN
Notary Public, State Of New York
No. 01MA6076302
Qualified In Suffolk County
Commission Expires June 24, 2006

EXHIBIT “A”

Dennis F. Dunne (DD 7543)
Susheel Kirpalani (SK 8926)
MILBANK, TWEED, HADLEY & M^CCLOY LLP
1 Chase Manhattan Plaza
New York, New York 10005-1413
(212) 530-5000

Attorneys for RCN Corporation, et al.,
Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----x
In re: : Chapter 11
: Case No. 04-13638 (RDD)
RCN CORPORATION, et al., : Jointly Administered
:
Reorganized Debtors. :
-----x

**OBJECTION OF REORGANIZED RCN TO CREDITOR DEBRA K.
CRAIG'S MOTION FOR LIMITED RELIEF FROM PLAN INJUNCTION**

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

RCN Corporation ("RCN") and certain of its direct and indirect subsidiaries, former debtors and debtors-in-possession in the above-captioned cases (collectively, "Reorganized RCN"), hereby objects (the "Objection") to the motion of creditor Debra K. Craig, on behalf of the RCN Savings And Stock Ownership Plan and its participants and beneficiaries (collectively, "Craig"), for limited relief from the anti-suit injunction contained in the Plan (as defined below) and the Confirmation Order (as defined below), dated December 20, 2004 (the "Motion") (Docket No. 495) and in support thereof, respectfully represent as follows:

I. Factual Background

1. Commencement of Cases. Commencing on May 27, 2004 (the "Petition Date") and periodically thereafter, RCN and certain of its affiliates each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (as amended, the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), which chapter 11 cases have been procedurally consolidated for administrative purposes only.

2. Craig Motion to File a Late Proof of Claim. On September 22, 2004, Craig filed the Motion For Leave To File Proof Of Claim (the "Late Claim Motion") (Docket No. 240), seeking to assert a claim (the "Late Claim") against RCN, after the claims bar date of August 11, 2004, for alleged violations of the Employee Retirement Income Security Act of 1974 (as amended, "ERISA") that allegedly resulted in losses to the Savings Plan of approximately \$26 million. On November 3, 2004, this Court issued an order denying the Proof Of Claim Motion in its entirety (the "Late Claim Order") (Docket No. 352), which Craig appealed to the United States District Court for the Southern District of New York (See Docket No. 366). On March 18, 2005, the District Court for the Southern District of New York affirmed the Late Claim Order and denied Craig's appeal.

3. New Jersey Action. October 5, 2004, Craig filed a related Class Action Complaint against certain fiduciaries of the Savings Plan within the meaning of ERISA, captioned Craig v. Filipowicz, et al., Case No. 04-cv-07875 (JSR) (S.D.N.Y.), which has subsequently been transferred to the District of New Jersey (the "NJ District Court"), with new Case No. 04-cv-05940 (SRC) (D. N.J.) (the "NJ Action") (NJ Action Docket No. 3). On March 15, 2005, the NJ District Court entered an order consolidating the NJ Action with certain other related actions and any other action arising out of the same operative facts, now pending or hereafter filed in or transferred to the NJ District Court (the "Consolidated NJ Action") (NJ Action Docket No. 9).

4. Plan Confirmation. On December 8, 2004, this Court confirmed the Joint Plan Of Reorganization Of RCN Corporation And Certain Subsidiaries, dated October 12, 2004 (the "Plan") and entered the Findings Of Fact And Conclusions Of Law Relating To And Order Under 11 U.S.C. § 1129(a) And (b) And Fed. R. Bankr. P. 3020 Confirming The Joint Plan Of Reorganization Of RCN Corporation And Certain Subsidiaries, dated December 8, 2004 (the "Confirmation Order") (Docket No. 483). On December 21, 2004 (the "Effective Date"), RCN and its subsidiaries consummated various transactions contemplated by the Plan, including funding of the exit facility, and formally emerged from chapter 11.

5. Insurance Policy. Pursuant to a insurance policy, Policy No. 8171-0131 (the "Insurance Policy"), issued to RCN by the Federal Insurance Company ("Federal Insurance"), for the period of October 1, 2003 to October 15, 2004, attached hereto as Exhibit A, RCN and certain of its current and former employees, officers and directors, several of whom are also named defendants in the Consolidated NJ Action (the "Individual Defendants") are insured against certain ERISA liability.

6. Fiduciary Indemnification Issue. Since RCN's emergence, RCN has been faced with the issue of whether to extend RCN's indemnification of the Individual Defendants in the ordinary course of business. Such indemnification is an important part of any corporation's ability to attract and retain qualified officers, directors and employee benefits personnel. In the event the Board of Directors of RCN determines to extend the indemnification, any indemnifiable liability or costs incurred by the Individual Defendants will necessarily be borne by RCN.

II. OBJECTION

7. Relief Cannot Be Granted if Cost to RCN. Craig seeks authority to name RCN in the Consolidated NJ Action, even though RCN is protected from liability by the discharge under section 524 of the Bankruptcy Code and Article XIV of the Plan (the "Plan Injunction"), for the purpose of recovering against

RCN's insurers. However, under governing law, a suit against RCN for the purpose of recovering against its insurers is only permitted if RCN's bankruptcy estate will not be burdened with additional costs. See, e.g., In re Petition of the Board of Directors of Hopewell International Insurance, LTD., 281 B.R. 200, 211 (Bankr. S.D.N.Y. 2002) ("The decisions that have permitted a creditor to pursue a claim based on a liability insurance policy have also stressed the fact that there would be **no cost** to the estate") (citations omitted) (emphasis added); see also Royal Ins. Co. v. McCrory Corp., No. 94 Civ. 5734, 1996 WL 204482 at *2 (S.D.N.Y. 1996) (District Court remands to Bankruptcy Court to make a factual determination regarding whether lifting the automatic stay to proceed against insurer would burden the bankruptcy estate).

8. Exhausting Policy Limit May Result in Cost.

Because the Insurance Policy covers both RCN and the Individual Defendants, and given that RCN may determine to indemnify the Individual Defendants in the near future, allowing RCN to be named as a defendant would risk significant cost to the reorganized debtor because a judgment entered against RCN would dilute the amount of insurance funds available for the Individual Defendants, and RCN would then be liable to indemnify for any amounts in excess of the insurance funds. See In re Agway, Inc., 313 B.R. 22 (Bankr. N.D.N.Y. 2003) (denying a motion

to lift the automatic stay to allow a party to sue the debtor to establish liability against a third party because the Court could not determine the exact status of the insurance and whether allowing the action to proceed would burden the bankruptcy estates). In order to ensure no cost to RCN, in connection with the Motion, RCN has requested that Craig agree that any liability arising from the Consolidated NJ Action would be capped at the total coverage available under the Insurance Policy. As of the time of this filing, Craig has refused to agree to such request. Absent such agreement, RCN may be subjected to additional costs if the Individual Defendants seek to be indemnified from RCN, or if Federal Insurance were to deny coverage for any costs or liability in connection with the Consolidated NJ Action.

9. Deductible May Result in Cost. Moreover, under Endorsement No. 2 of the Insurance Policy, RCN is contractually obligated to pay a \$1.5 million deductible on certain securities-based-claims, which may include some or all of the claims in the Consolidated NJ Action. Federal Insurance has reserved its rights to assert that RCN is liable to pay the deductible under the Insurance Policy. Although RCN believes it may have defenses to such assertion, RCN fears the possibility of arbitration or litigation over this issue which would not be covered by the insurance. Moreover, any coverage litigation

that RCN is subjected to in connection with the Consolidated NJ Action would interfere with RCN's statutory right to have a "fresh start" following its bankruptcy discharge. Put simply, this is not a situation where Craig can meet her burden of establishing that there will be no economic ramifications to the reorganized debtor if the Motion is granted.

10. No Equities in Craig's Favor. Finally, unlike the cases cited by Craig, there exists no compelling reason why Craig should be permitted to lift the Plan Injunction to name RCN in the Consolidated NJ Action. This is not a situation where the insurance carriers will be unjustly benefited by enforcement of the injunction and discharge. Nor does the discharge operate to discharge the insurers from paying on the Insurance Policy. Here, unlike Craig's cited authority, the plaintiff is ***already suing the Individual Defendants*** and, as such, ***has full an unfettered access to the Insurance Policy proceeds***. Craig has failed to meet even a threshold showing of equities in her favor in seeking the relief contemplated by the Motion. On the other hand, the economic risks to RCN are real.

III. Reservation of Rights

11. While RCN does not believe Craig is entitled to the relief requested in the Motion, in the event this Court finds otherwise, RCN respectfully requests that any order granting the Motion expressly provide that RCN shall not be

required to bear any costs as a result thereof or in connection with the Consolidated NJ Action. Furthermore, in the event that Craig obtains a final order granting the relief requested in her Late Claim Motion through an appeal to the Second Circuit Court of Appeals, RCN requests that the priority of and that recovery on the Late Claim be consistent with the terms of the Plan and subject to any applicable provisions of the Bankruptcy Code. Moreover, pursuant to Article XII of the Plan, the priority of the Claim and all issues relating to distributions therein should remain within the exclusive jurisdiction of the Bankruptcy Court and subject to any applicable provisions of the Bankruptcy Code, including, without limitation, mandatory subordination under section 510(b) of the Bankruptcy Code.

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III. CONCLUSION

WHEREFORE Reorganized RCN respectfully requests that this Court enter an order (i) denying the Motion; (ii) reserving RCN's rights with respect to ¶11 of this Motion; and (iii) granting such other and further relief as is just and proper.

Dated: New York, New York
March 28, 2005

MILBANK, TWEED, HADLEY & McCLOY LLP

By: /s/ Susheel Kirpalani
Dennis F. Dunne (DD 7543)
Susheel Kirpalani (SK 8926)
One Chase Manhattan Plaza
New York, New York 10005-1413
(212) 530-5000

Attorneys for RCN Corporation, et al.,
Reorganized Debtors

Exhibit A



**POLICYHOLDER
DISCLOSURE NOTICE OF
TERRORISM INSURANCE COVERAGE**
(for policies with no terrorism exclusion or sublimit)

You are hereby notified that, under the Terrorism Risk Insurance Act of 2002 (the "Act") effective November 26, 2002, this policy makes available to you insurance for losses arising out of certain acts of international terrorism. Terrorism is defined as any act certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or the premises of a United States Mission; and to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

You should know that the insurance provided by your policy for losses caused by acts of terrorism is partially reimbursed by the United States under the formula set forth in the Act. Under this formula, the United States pays 90% of covered terrorism losses that exceed the statutorily established deductible to be paid by the insurance company providing the coverage. The portion of your policy's annual premium that is attributable to insurance for such acts of terrorism is: \$ -0-.

If you have any questions about this notice, please contact your agent or broker.



Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

Executive Protection Portfolio SM
General Terms and Conditions Section

DECLARATIONS

FEDERAL INSURANCE COMPANY

A stock insurance company, incorporated under
the laws of Indiana, herein called the Company

Policy Number: 8171-0131

THE EXECUTIVE LIABILITY AND ENTITY SECURITIES LIABILITY, FIDUCIARY LIABILITY, OUTSIDE DIRECTORSHIP LIABILITY AND EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTIONS (WHICHEVER ARE PURCHASED) PROVIDE CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD", OR ANY EXTENDED REPORTING PERIOD. THE APPLICABLE LIMIT(S) OF LIABILITY TO PAY "LOSS" WILL BE REDUCED, AND MAY BE EXHAUSTED, BY THE PAYMENT OF "DEFENSE COSTS" UNLESS OTHERWISE SPECIFIED HEREIN. "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. READ THE ENTIRE POLICY CAREFULLY.

- Item 1. **Parent Organization:** RCN Corporation
Principal Address: 105 Carnegie Center
Princeton, NJ 08540
- Item 2. **Policy Period:** From 12:01 A.M. on October 1, 2003
To 12:01 A.M. on October 15, 2004
Local time at the address shown in Item 1.
- Item 3. **Coverage Summary**
Description:
GENERAL TERMS AND CONDITIONS
FIDUCIARY LIABILITY
CRIME
- Item 4. **Termination of**
Prior Bonds or Policies: 8171-0131 (October 1, 2002 - October 1, 2003)

Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

Executive Protection PortfolioSM
General Terms and Conditions Section

In witness whereof, the Company issuing this policy has caused this policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

FEDERAL INSURANCE COMPANY

Henry A. Aubert

Secretary

Thomas F. Molamed

President

02/27/04

Date

Robert Hamburger

Authorized Representative



In consideration of payment of the premium and subject to the Declarations and the limitations, conditions, provisions and other terms of this policy, the Company and the Insureds agree as follows:

Territory

1. Coverage shall extend anywhere in the world.

Terms and Conditions

2. Except for these General Terms and Conditions or unless stated to the contrary in any coverage section of this policy, the terms and conditions of each coverage section shall apply only to that coverage section. If any provision in these General Terms and Conditions is inconsistent or in conflict with the terms and conditions of any coverage section, the terms and conditions of such coverage section shall control for purposes of that coverage section. Any defined term referenced in these General Terms and Conditions but defined in a coverage section shall, for purposes of coverage under that coverage section, have the meaning set forth in that coverage section.

Definitions

3. When used in this policy:

Claim shall have the meaning set forth in the applicable coverage section.

Insured shall have the meaning set forth in the applicable coverage section.

Parent Organization means the organization designated in Item 1 of the Declarations of these General Terms and Conditions.

Policy Period means the period of time specified in Item 2 of the Declarations of these General Terms and Conditions, subject to prior termination in accordance with Subsection 11 below. If this period is less than or greater than one year, then the limits of liability specified in the Declarations for each coverage section shall be the Company's maximum limit of liability under such coverage section for the entire period.

Limits of Liability and Retentions

4. Unless stated to the contrary in any coverage section, the limits of liability and retentions shown for each coverage section are separate limits of liability and separate retentions pertaining to the coverage section for which they are shown. Unless stated to the contrary in any coverage section of this policy, the payment of a retention under one coverage section shall not constitute payment of, and shall not reduce, the applicable retention under any other coverage section.

Notice

Executive Protection PortfolioSM
General Terms and Conditions Section

5. Any notice to the Company with respect to any coverage section shall designate the coverage section under which notice is being given and shall be treated as notice only under the coverage section(s) so designated.

Notice to the Company of a **Claim**, or of circumstances which could give rise to a **Claim**, shall be given in writing addressed to:

Attn: Claims Department
Chubb Group of Insurance Companies
82 Hopmeadow Street
Simsbury, Connecticut 06070-7683

All other notices to the Company shall be given in writing addressed to:

Attn: Underwriting
Chubb Group of Insurance Companies
82 Hopmeadow Street
Simsbury, Connecticut 06070-7683

Any such notice shall be effective on the date of receipt by the Company at such address.

Valuation and Foreign Currency

6. All premiums, limits, retentions, loss and other amounts under this policy are expressed and payable in the currency of the United States of America. Except as otherwise provided in any coverage section, if a judgment is rendered, a settlement is denominated or any element of loss under this policy is stated in a currency other than United States of America dollars, payment under this policy shall be made in United States of America dollars at the rate of exchange published in The Wall Street Journal on the date the judgment becomes final, the amount of the settlement is agreed upon or the element of loss is due, respectively.

Subrogation

7. In the event of any payment under this policy, the Company shall be subrogated to the extent of such payment to all the Insured's rights of recovery, and such Insured shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit or otherwise pursue subrogation rights in the name of the Insured.

Action Against the Company



8. No action may be taken against the Company unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy. No person or entity shall have any right under this policy to join the Company as a party to any action against any **Insured** to determine such **Insured's** liability nor shall the Company be impleaded by such **Insured** or legal representatives of such **Insured**.

Parent Organization Rights and Obligations

9. By acceptance of this policy, the **Parent Organization** agrees that it shall be considered the sole agent of, and shall act on behalf of, each **Insured** with respect to: the payment of premiums and the receiving of any return premiums that may become due under this policy; the negotiation, agreement to and acceptance of endorsements; the giving or receiving of any notice provided for in this policy (except the giving of notice to apply for an Extended Reporting Period); the adjustment of loss amounts; and the receipt or enforcement of payment of loss (and the **Parent Organization** further agrees that it shall be responsible for application of any such payment as provided in this policy). Each **Insured** agrees that the **Parent Organization** shall act on its behalf with respect to all such matters.

Alteration and Assignment

10. No change in, modification of, or assignment of interest under this policy shall be effective except when made by written endorsement to this policy which is signed by an authorized employee of Chubb & Son, a division of Federal Insurance Company.

Termination of Policy or Coverage Section

11. This policy or any coverage section shall terminate at the earliest of the following times:
- (a) sixty days after receipt by the **Parent Organization** of written notice of termination from the Company for any reason other than non-payment of premium;
 - (b) twenty days after receipt by the **Parent Organization** of written notice of termination from the Company for non-payment of premium;
 - (c) upon receipt by the Company of written notice of termination from the **Parent Organization**; provided that this policy may not be terminated by the **Parent Organization** after the effective date of any acquisition of the **Parent Organization** as described in the Changes in Exposure subsection of the applicable coverage section of this policy;
 - (d) upon expiration of the **Policy Period** as set forth in Item 2 of the Declarations of these General Terms and Conditions; or
 - (e) at such other time as may be agreed upon by the Company and the **Parent Organization**.

The Company shall refund the unearned premium computed at customary short rates if this policy or any coverage section is terminated by the **Parent Organization**. Under any other

Executive Protection PortfolioSM
General Terms and Conditions Section

circumstances the refund shall be computed pro rata. Payment or tender of any unearned premium by the Company shall not be a condition precedent to the effectiveness of a notice of termination, but such payment shall be made as soon as practicable thereafter.

Termination of Prior Bonds or Policies

12. Any bonds or policies issued by the Company or its affiliates and specified in Item 4 of the Declarations of these General Terms and Conditions shall terminate, if not already terminated, as of the inception of this policy.

Bankruptcy

13. Bankruptcy or insolvency of any **Insured** shall not relieve the Company of its obligations nor deprive the Company of its rights or defenses under this policy.

Headings

14. The descriptions in the headings and sub-headings of this policy are solely for convenience, and form no part of the terms and conditions of coverage.
-



ENDORSEMENT

Coverage Section: Executive Protection Portfolio General Terms and Conditions Section (Federal & Vigilant)

Effective date of
this endorsement: October 1, 2003

Company: Federal Insurance Company

Endorsement No. 1

To be attached to and
form a part of Policy No. 8171-0131

Issued to: RCN Corporation

NEW JERSEY AMENDATORY ENDORSEMENT TO THE GENERAL TERMS AND CONDITIONS SECTION

In consideration of the premium charged, it is agreed that:

1. Subsection 11. Termination of Policy or Coverage Section (a) of the General Terms and Conditions Section is amended to add the following to the end of such paragraph (a):

"provided that, after this policy or the applicable coverage section is in effect for sixty (60) days, or is a renewal, the Company may cancel this policy, other than for non-payment of premium, only for one or more of the following reasons:

- (1) moral hazard, meaning, the risk, danger, or probability that the Insured will destroy or permit to be destroyed, any insured property for the purpose of collecting insurance proceeds; or any change in the character or circumstances of the Insured that will increase the probability of a loss or liability for which the Company will be held responsible;
- (2) material misrepresentation or nondisclosure of a material fact at the time of the acceptance of the risk;
- (3) increased hazard or material change in the risk assumed which could not have been reasonably contemplated;
- (4) substantial breaches of contractual duties, conditions, or warranties that materially affect the nature and/or insurability of the risk;
- (5) lack of cooperation from the Insured on loss control matters materially affecting insurability of the risk;
- (6) fraudulent acts against the Company by the Insured or its representatives that materially affect the nature of the risk insured;
- (7) loss of or reduction in available insurance capacity;
- (8) material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of this policy, provided that proper notice is filed with the insurance commissioner;

- (9) loss of or reduction in applicable reinsurance;
 - (10) failure by the Insured to comply with any federal, state, or local fire, health, safety, building or construction regulation, law, or ordinance with respect to an insured risk which substantially increases any hazard insured against within sixty (60) days of written notification of a violation of any such law, regulation or ordinance;
 - (11) failure by the Insured to provide reasonable and necessary underwriting information to the Company upon written request therefor and a reasonable opportunity to respond; or
 - (12) agency termination;
2. Subsection 11. Termination of Policy or Coverage Section (d) of the General Terms and Conditions Section is amended to add the following at the end of such paragraph (d):

"provided that, non-renewal by the Company of this policy or any coverage section is effective if the Company delivers or mails, by first class mail (if the Company retains a date stamped proof of mailing from the post office showing the addressee) or certified mail, between thirty (30) and one hundred and twenty (120) days advance written notice of non-renewal to the Parent Organization at its last known address. Such non-renewal will be based on underwriting guidelines that are not arbitrary, capricious or unfairly discriminatory and the notice of non-renewal will state the reason(s) for non-renewal. If the Company does not provide the notice within the time period specified in this paragraph, this policy will be extended until such notice is provided, with such extension conditioned upon the payment of premium calculated by pro-rating the premium for the expiring Policy Period; or"

3. Subsection 11. Termination of Policy or Coverage Section of the General Terms and Conditions Section is amended further to add the following at the end of such Subsection:

"Any notice of cancellation by the Company will be delivered or mailed by first class mail (if the Company retains a date stamped proof of mailing from the post office showing the addressee) or certified mail to the Parent Organization at its last address known to the Company.

The Company will provide such notice of such cancellation between thirty (30) and one hundred twenty (120) days before the effective date of cancellation, except that notice of cancellation for nonpayment of premium or moral hazard may be given up to ten (10) days before the effective date of cancellation.

Notices of cancellation or non-renewal by the Company will contain a provision in bold type stating that the Insured may file a written complaint on the decision to cancel or non-renew such coverage section with the New Jersey Department of Insurance. The Department's address will be included and the Insured will be advised to immediately contact the Insurance Department in the event it wishes to file a complaint.

The Company has no obligation to send notice of cancellation or non-renewal if the Parent Organization has:

- (1) replaced coverage elsewhere; or
- (2) specifically requested termination.

The Company may increase premium or change the terms and conditions of the policy upon renewal by delivering or mailing written notice of such changes to the Parent Organization between thirty (30) and one hundred and twenty (120) days before the premium due date. Such notice will state the effect of nonpayment of the premium by the due date."



The policy is deemed to have been amended to the extent necessary to effectuate the purposes of this Amendatory Endorsement.

The regulatory requirements set forth in this Amendatory Endorsement shall supersede and take precedence over any provisions of the policy or any endorsement to the policy, whenever added, that are inconsistent with or contrary to the provisions of this Amendatory Endorsement, unless such policy or endorsement provisions comply with the applicable insurance laws of the state of New Jersey.

All other terms, conditions and limitations of this policy shall remain unchanged.

A handwritten signature in cursive script that reads 'Robert Hamburger'.

Authorized Representative

Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

Executive Protection PortfolioSM
Fiduciary Liability Coverage Section

Item 7. Pending or Prior Date:

(A) Insuring Clause 1:	09/30/1997
(B) Insuring Clause 2:	09/30/1997



Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

Executive Protection PortfolioSM
Fiduciary Liability Coverage Section

DECLARATIONS

FEDERAL INSURANCE COMPANY

A stock insurance company, incorporated under
the laws of Indiana, herein called the Company

THIS COVERAGE SECTION PROVIDES CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD", OR ANY EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY "LOSS" WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS", UNLESS OTHERWISE SPECIFIED HEREIN, AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. READ THE ENTIRE POLICY CAREFULLY.

Item 1. Parent Organization:

RCN Corporation
105 Carnegie Center
Princeton, NJ 08540

Item 2. Optional Defense Outside the Limits of Liability Coverage purchased ☐ Yes ☒ No

Item 3. Limits of Liability:

(A) Each Claim: \$10,000,000.00
(B) Each Policy Period: \$10,000,000.00

Note: Unless Defense Outside the Limits of Liability Coverage is purchased pursuant to Item 2 above, the Limits of Liability will be reduced and may be exhausted by **Defense Costs**.

Item 4. Retention:

(A) Insuring Clause 1 - Fiduciary Liability Coverage: \$0.00
(B) Insuring Clause 2 - Voluntary Settlement Program Coverage: \$100,000.00

Item 5. Organization:

RCN Corporation and RCN Charitable Foundation and its Subsidiaries

Item 6. Extended Reporting Period:

(A) Additional Period: one year
(B) Additional Premium: 175 % of Annualized Premium for the Expiring Policy Period



In consideration of payment of the premium and subject to the Declarations, the General Terms and Conditions, and the limitations, conditions, provisions and other terms of this coverage section, the Company and the Insureds agree as follows:

Insuring Clauses

Fiduciary Liability Coverage Insuring Clause 1

1. The Company shall pay, on behalf of the Insureds, Loss on account of any **Fiduciary Claim** first made against the Insureds during the **Policy Period**, or, if exercised, during the **Extended Reporting Period**, for a **Wrongful Act** committed, attempted or allegedly committed before or during the **Policy Period** by such Insureds, or by any person for whose **Wrongful Acts** the Insureds are legally responsible, but only if such **Claim** is reported to the Company in writing in the manner and within the time provided in Subsection 11 of this coverage section.

Voluntary Settlement Program Coverage Insuring Clause 2

2. The Company shall pay, on behalf of the Insureds, **Settlement Fees** and **Defense Costs** with respect to a **Settlement Program Notice** first given to the Company during the **Policy Period**, or, if exercised, during the **Extended Reporting Period**, provided (i) the **Settlement Fees** and **Defense Costs** are incurred after such **Settlement Program Notice** is first given to the Company, and (ii) the Company's maximum liability for all **Settlement Fees** and **Defense Costs** with respect to all **Settlement Program Notices** first given to the Company during the **Policy Period** (including the **Extended Reporting Period**, if applicable) shall be \$100,000. Such amount shall be part of, and not in addition to, the **Limit of Liability** otherwise applicable to this coverage section.

Definitions

3. When used in this coverage section:

Administration means:

- (1) advising, counseling or giving notice to **Employees**, participants or beneficiaries with respect to any **Plan**;
- (2) providing interpretations with respect to any **Plan**; or
- (3) handling of records or effecting enrollment, termination or cancellation of **Employees**, participants or beneficiaries under any **Plan**.

Application means all signed applications, including attachments and other materials submitted therewith or incorporated therein, submitted by the Insureds to the Company for this coverage section or for any coverage section or policy of which this coverage section is a direct or indirect renewal or replacement. All such applications, attachments and materials are deemed attached to, incorporated into and made a part of this coverage section.

Executive Protection Portfolio SM
Fiduciary Liability Coverage Section

Claim means for the purposes of coverage under:

- (1) Insuring Clause 1: any **Fiduciary Claim**; or
- (2) Insuring Clause 2: any **Settlement Program Notice**.

Defense Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees or benefits of the directors, officers or **Employees** of the **Organization**) incurred in defending any **Claim** and the premium for appeal, attachment or similar bonds.

Domestic Partner means any natural person qualifying as a domestic partner under the provisions of any applicable federal, state or local law or under the provisions of any formal program established by the **Organization**.

Employee means any natural person whose labor or service is engaged by and directed by the **Organization** or any **Plan**, including part-time, seasonal, leased and temporary employees as well as volunteers. **Employee** shall not include any independent contractor.

ERISA means the Employee Retirement Income Security Act of 1974, the English Pension Scheme Act 1993, the English Pensions Act 1995, all as amended, any similar common or statutory law anywhere in the world, and any rules or regulations promulgated under any such Acts or law.

Executive means any natural person who was, now is or shall become:

- (a) a duly elected or appointed director, officer, **Manager**, or in-house general counsel of any **Plan** or any **Organization** incorporated in the United States of America; or
- (b) a holder of a position equivalent to any position described in (a) above in an **Organization** that is chartered in any jurisdiction other than the United States of America.

Fiduciary Claim means:

- (a) a written demand for monetary damages or non-monetary relief;
- (b) a civil proceeding commenced by the service of a complaint or similar pleading;
- (c) a criminal proceeding commenced by a return of an indictment or information;
- (d) a formal civil administrative or civil regulatory proceeding commenced by the filing of a notice of charges or similar document or by the entry of a formal investigative order or similar document; or
- (e) a written notice of commencement of a fact-finding investigation by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority located outside the United States, including but not limited to, the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Social Services, the United Kingdom Occupational Pensions Regulatory Authority,

against any **Insured** for a **Wrongful Act**, including any appeal therefrom.



Except as may otherwise be provided in Subsection 9, Subsection 10(e), or Subsection 11(b) of this coverage section, a **Fiduciary Claim** will be deemed to have first been made when such **Fiduciary Claim** is commenced as set forth in this definition (or, in the case of a written demand or notice, when such demand or notice is first received by an **Insured**).

Financial Impairment means the status of an **Organization** resulting from:

- (a) the appointment by any state or federal official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate such **Organization**; or
- (b) such **Organization** becoming a debtor in possession under the United States bankruptcy law or the equivalent of a debtor in possession under the law of any other country.

Insured means the **Organization**, any **Plan** and any **Insured Person**.

Insured Person means:

- (a) any past, present or future **Executive**, **Employee** or natural person trustee of the **Organization** or of the **Sponsored Plan**; and
- (b) any past, present or future natural person trustee or fiduciary of a multi-employer plan, if such person in such capacity is added as an **Insured Person** by specific written endorsement to this coverage section.

Loss means the amount that any **Insured** becomes legally obligated to pay on account of any covered **Claim**, including but not limited to damages (including punitive or exemplary damages, or the multiple portion of any multiplied damage award, if and to the extent such damages are insurable under the law of the jurisdiction most favorable to the insurability of such damages provided such jurisdiction has a substantial relationship to the relevant **Insureds**, to the Company, or to the **Claim** giving rise to the damages), judgments, settlements, pre-judgment and post-judgment interest, **Defense Costs** and, solely with respect to Insuring Clause 2, **Settlement Fees**.

Loss does not include:

- (a) any amount not indemnified by the **Organization** for which the **Insured** is absolved from payment by reason of any covenant, agreement or court order;
- (b) any costs incurred by an **Organization** or **Plan** to comply with any order for injunctive or other non-monetary relief, or to comply with an agreement to provide such relief;
- (c) any amount incurred by an **Insured** in the defense or investigation of any action, proceeding, investigation or demand that is not then a **Claim** even if (i) such amount also benefits the defense of a covered **Claim**; or (ii) such action, proceeding, investigation or demand subsequently gives rise to a **Claim**;
- (d) taxes, fines or penalties, except as provided above with respect to punitive or exemplary damages or the multiple portion of any multiplied damages, and except:

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- (i) the five percent (5%) or less, or the twenty percent (20%) or less, civil penalties imposed upon an **Insured** as a fiduciary under Section 502(i) or (l), respectively, of the Employee Retirement Income Security Act of 1974, as amended;
 - (ii) any civil penalties imposed by the Pension Ombudsman appointed by the United Kingdom Secretary of State for Social Services or by the United Kingdom Occupational Pensions Regulatory Authority, pursuant to the English Pension Scheme Act 1993, the English Pensions Act 1995, or rules or regulations thereunder; provided any coverage for such civil penalties applies only if the funds or assets of the subject **Plan** are not used to fund, pay or reimburse the premium for this coverage section; or
 - (iii) solely with respect to Insuring Clause (2), **Settlement Fees**;
- (e) any amount allocated to non-covered loss pursuant to Subsection 13 of this coverage section; or
 - (f) any amount not insurable under the law pursuant to which this coverage section is construed, except as provided above with respect to punitive or exemplary damages or the multiple portion of any multiplied damages.

Manager means any natural person who was, now is or shall become a manager, member of the Board of Managers or equivalent executive of an **Organization** that is a limited liability company.

Organization means, collectively, those organizations designated in Item 5 of the Declarations for this coverage section, including any such organization in its capacity as a debtor in possession under the United States bankruptcy law or in an equivalent status under the law of any other country.

Plan means:

- (a) any **Sponsored Plan**; and
- (b) any government-mandated insurance program for workers' compensation, unemployment, social security or disability benefits for **Employees**.

Pollutants means (a) any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, the United States Environmental Protection Agency or any state, county, municipality or locality counterpart thereof, including, without limitation, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapor, soot, fumes, acids, alkalis, chemicals or waste materials, or (b) any other air emission, odor, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products or any noise.

Related Claims means all **Claims for Wrongful Acts** based upon, arising from or in consequence of the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances, situations, transactions or events.

Settlement Fees means any fees, fines, penalties or sanctions paid by an **Insured** to a governmental authority pursuant to a **Settlement Program** for the actual or alleged inadvertent non-compliance by a **Plan** with any statute, rule or regulation; provided **Settlement Fees** shall not include (a) any costs to correct the non-compliance, or any other



charges, expenses, taxes or damages; or (b) any fees, fines, penalties or sanctions relating to a **Plan** which, as of the earlier of the inception of this coverage section or the inception of the first policy in an uninterrupted series of policies issued by the Company of which this coverage section is a direct or indirect renewal or replacement, any **Insured Person** knew to be actually or allegedly non-compliant.

Settlement Program means any voluntary compliance resolution program or similar voluntary settlement program administered by the U.S. Internal Revenue Service or the U.S. Department of Labor, including but not limited to, the Employee Plans Compliance Resolution System, the Audit Closing Agreement Program, the Voluntary Compliance Resolution Program, the Walk-in Closing Agreement Program, the Administrative Policy Regarding Self-Correction, the Tax Sheltered Annuity Voluntary Correction Program, the Delinquent Filer Voluntary Compliance Program, and the Voluntary Fiduciary Correction Program, or any similar program administered by a governmental authority located outside the United States.

Settlement Program Notice means prior written notice to the Company by the **Insured** of the **Insured's** intent to enter into a **Settlement Program**.

Sponsored Plan means:

- (a) any Employee Benefit Plan, Pension Benefit Plan or Welfare Benefit Plan, as each are defined in **ERISA**, which is operated solely by the **Organization** or jointly by the **Organization** and a labor organization solely for the benefit of the **Employees** or **Executives** of the **Organization** located anywhere in the world and which existed on or before the inception date set forth in Item 2 of the Declarations of the General Terms and Conditions or which is created or acquired after such inception date; provided (i) any coverage with respect to any such Plan created or acquired during the **Policy Period** shall apply only for **Wrongful Acts** committed, attempted, or allegedly committed or attempted after the effective date of such creation or acquisition and shall be subject to Subsection 15 of this coverage section, and (ii) any coverage with respect to an employee stock ownership plan created or acquired during the **Policy Period** shall be further subject to Subsection 19 of this coverage section;
- (b) any other employee benefit plan or program not subject to **ERISA** which is sponsored solely by the **Organization** for the benefit of the **Employees** or **Executives**, including any fringe benefit or excess benefit plan;
- (c) any other plan or program otherwise described in paragraphs (a) or (b) above while such plan or program is being actively developed, formed or proposed by the **Organization** prior to the formal creation of such plan or program; provided, however, no coverage is afforded under this coverage section for any **Claim** against an **Insured** in a settlor or similar uninsured capacity with respect to any plan or program; and
- (d) any other plan, fund, or program specifically included as a **Sponsored Plan** by endorsement to this coverage section.

Sponsored Plan shall not include any employee stock ownership plan created or acquired by the **Organization** during the **Policy Period** (except as otherwise provided in Subsection 19 of this coverage section), or any multi-employer plan created before or during the **Policy Period**.

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Subsidiary, either in the singular or plural, means any organization while more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to vote for election of or to appoint directors or **Managers** of such organization are owned or controlled, directly or indirectly, in any combination, by one or more **Organizations**.

Wrongful Act means with respect to any **Plan**:

- (a) any breach of the responsibilities, obligations or duties imposed by **ERISA** upon fiduciaries of the **Sponsored Plan** in their capacity as such fiduciaries;
- (b) any negligent act, error or omission in the **Administration** of any **Plan** committed, attempted, or allegedly committed or attempted by an **Insured** in the **Insured's** capacity as such; or
- (c) any other matter claimed against an **Insured** solely by reason of the **Insured's** service as a fiduciary of any **Sponsored Plan**.

Exclusions

4. The Company shall not be liable for **Loss** on account of any **Claim** against an **Insured**:
- (a) based upon, arising from or in consequence of any fact, circumstance, situation, transaction, event or **Wrongful Act** that, before the inception date set forth in Item 2 of the Declarations of the General Terms and Conditions, was the subject of any notice given under any policy or coverage section of which this coverage section is a direct or indirect renewal or replacement;
 - (b) based upon, arising from or in consequence of any demand, suit, or other proceeding pending against, or order, decree or judgment entered for or against any **Insured**, on or prior to the applicable Pending or Prior Date set forth in Item 7 of the Declarations for this coverage section, or the same or substantially the same fact, circumstance or situation underlying or alleged therein;
 - (c) based upon, arising from or in consequence of:
 - (i) any actual, alleged, or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of any **Pollutants**; or
 - (ii) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request,

including but not limited to any **Claim** for financial loss to any **Organization** or **Plan** or creditors based upon, arising from or in consequence of any matter described in clause (i) or clause (ii) of this Exclusion 4(c); provided that this Exclusion 4(c) shall not apply to (A) any **Claim** by or on behalf of a beneficiary of or participant in any **Sponsored Plan** based upon, arising from or in consequence of the diminution in value of any securities owned by the **Sponsored Plan** in any organization other than the **Organization**, if such diminution in value is allegedly as a result of the matters



described above in this Exclusion 4(c), or (B) **Loss** (other than fees and expenses incurred in testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing **Pollutants**) incurred by an **Insured Person** for which the **Organization** is not permitted by common or statutory law to indemnify or for which the **Organization** is not able to indemnify by reason of **Financial Impairment**;

- (d) for bodily injury, mental anguish, emotional distress, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof whether or not it is damaged or destroyed;
- (e) based upon, arising from or in consequence of the liability of others assumed by any **Insured** under any written or oral contract or agreement; provided that this Exclusion 4(e) shall not apply to the extent that:
 - (i) an **Insured** would have been liable in the absence of the contract or agreement; or
 - (ii) the liability was assumed in accordance with or under the agreement or declaration of trust pursuant to which the **Plan** was established;
- (f) for the failure of the **Insured** to comply with any workers' compensation, unemployment insurance, social security or disability benefits law or any amendments thereto or any rules or regulations promulgated thereunder, or any similar provisions of any federal, state, or local statutory law or common law anywhere in the world, except (i) the Consolidated Omnibus Budget Reconciliation Act of 1985, (ii) the Health Insurance Portability and Accountability Act of 1996, or (iii) any amendments to or any rules or regulations promulgated under such Acts;
- (g) made against a **Subsidiary** or an **Insured Person** of such **Subsidiary** for any **Wrongful Act** committed, attempted, or allegedly committed or attempted during any time when such entity was not a **Subsidiary**; or
- (h) based upon, arising from or in consequence of:
 - (i) the committing in fact of any deliberately fraudulent act or omission or any willful violation of any statute or regulation by such **Insured**; or
 - (ii) such **Insured** having gained in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled,

as evidenced by (A) any written statement or written document by any **Insured** or (B) any judgment or ruling in any judicial, administrative or alternative dispute resolution proceeding.

5. The Company shall not be liable for **Loss**, other than **Defense Costs**:

- (a) which constitutes the return or reversion to an employer of any contribution or asset of a **Plan**;
- (b) which constitutes (i) benefits due or to become due under any **Plan**, or (ii) benefits which would be due under any **Plan** if such **Plan** complied with all applicable law, except to the extent that:

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- (A) an **Insured** is a natural person and the benefits are payable by such **Insured** as a personal obligation; and
- (B) recovery for the benefits is based upon a covered **Wrongful Act**; or
- (c) which is based upon, arising from or in consequence of the failure to collect an employer's contributions owed to a **Plan** unless the failure is because of the negligence of any **Insured**.

Severability of Exclusions

- 6. (a) No fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** for the purpose of applying Exclusion 4(h) of this coverage section.
- (b) Only facts pertaining to and knowledge possessed by any **Executive** of an **Organization** or **Plan** shall be imputed to such **Organization** or **Plan** for the purpose of applying Exclusion 4(h) of this coverage section.

Spouses, Estates and Legal Representatives

- 7. Subject otherwise to the General Terms and Conditions and the limitations, conditions, provisions and other terms of this coverage section, coverage shall extend to **Claims** for the **Wrongful Acts** of an **Insured Person** made against:
 - (a) the estate, heirs, legal representatives or assigns of such **Insured Person** if such **Insured Person** is deceased or the legal representatives or assigns of such **Insured Persons** if such **Insured Person** is incompetent, insolvent or bankrupt; or
 - (b) the lawful spouse or **Domestic Partner** of such **Insured Person** solely by reason of such spouse or **Domestic Partner's** status as a spouse or **Domestic Partner**, or such spouse or **Domestic Partner's** ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**.

All terms and conditions of this coverage section, including without limitation the Retention, applicable to **Loss** incurred by the **Insured Persons**, shall also apply to loss incurred by the estates, heirs, legal representatives, assigns, spouses and **Domestic Partners** of such **Insured Persons**. The coverage provided by this Subsection 7 shall not apply with respect to any loss arising from an act or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or **Domestic Partner**.

Coordination with Employment Practices Liability Coverage Section

- 8. Any **Loss** otherwise covered by both (i) this coverage section and (ii) any employment practices liability coverage section or policy issued by the Company or by any affiliate of the Company (an "Employment Practices Liability Coverage"), first shall be covered as provided in, and shall be subject to the limit of liability, retention and coinsurance percentage applicable to the Employment Practices Liability Coverage. Any remaining **Loss** otherwise covered by this coverage section which is not paid under the Employment Practices Liability



Coverage shall be covered as provided in, and shall be subject to the Limit of Liability and Retention applicable to this coverage section; provided the Retention applicable to such Loss under this coverage section shall be reduced by the amount of Loss otherwise covered by this coverage section which is paid by the Insureds as the retention under such Employment Practices Liability Coverage.

Extended Reporting Period

9. If the Company or the Parent Organization terminates or does not renew this coverage section, other than termination by the Company for nonpayment of premium, the Parent Organization and the Insureds shall have the right, upon payment of the additional premium set forth in Item 6(B) of the Declarations for this coverage section, to an extension of the coverage granted by this coverage section for Claims that are (i) first made during the period set forth in Item 6(A) of the Declarations for this coverage section (the "Extended Reporting Period") following the effective date of termination or nonrenewal, and (ii) reported to the Company in writing within the time provided in Subsection 11(a) of this coverage section, but only to the extent such Claims are for Wrongful Acts committed, attempted, or allegedly committed or attempted before the earlier of the effective date of termination or nonrenewal or the date of the first merger, consolidation or acquisition event described in Subsection 16 below. The offer of renewal terms and conditions or premiums different from those in effect prior to renewal shall not constitute refusal to renew. The right to purchase an extension of coverage as described in this subsection shall lapse unless written notice of election to purchase the extension, together with payment of the additional premium due, is received by the Company within thirty (30) days after the effective date of termination or nonrenewal. Any Claim made during the Extended Reporting Period shall be deemed to have been made during the immediately preceding Policy Period. The entire additional premium for the Extended Reporting Period shall be deemed fully earned at the inception of such Extended Reporting Period.

Limit of Liability and Retention

10. (a) The Company's maximum liability for all Loss on account of each Claim covered under Insuring Clause 1 shall be the Limit of Liability set forth in Item 3(A) of the Declarations for this coverage section. The Company's maximum aggregate liability for all Loss on account of all Claims first made during the Policy Period, whether covered under one or both Insuring Clauses, shall be the Limit of Liability set forth in Item 3(B) of the Declarations for this coverage section. The Company's maximum liability for all Defense Costs and Settlement Fees with respect to each Settlement Program Notice for which coverage is provided under Insuring Clause 2, and the Company's maximum aggregate liability for all Defense Costs and Settlement Fees with respect to all such Settlement Program Notices first given to the Company during the Policy Period, shall be \$100,000, which amount is part of and not in addition to the Limit of Liability for each Policy Period set forth in Item 3(B) of the Declarations for this coverage section.
- (b) Solely in the event that Defense Outside the Limits of Liability Coverage is purchased, as set forth in Item 2 of the Declarations for this coverage section, Defense Costs shall be in addition to, and not part of, the applicable Limit of Liability; provided that, when such Limit of Liability is exhausted by payment of Loss, other than Defense Costs, any obligation of the Company to pay Defense Costs or to defend or continue to defend any Claim shall cease. If Defense Outside the Limits of Liability Coverage is not purchased, Defense Costs shall be part of, and not in

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addition to, the Limits of Liability set forth in Item 3 of the Declarations for this coverage section, and the payment by the Company of **Defense Costs** shall reduce and may exhaust such applicable Limits of Liability.

- (c) No Retention shall apply to any **Loss** under this coverage section incurred by an **Insured Person** if such **Loss** can not be indemnified by an **Organization** or **Plan** because such **Organization** or **Plan** is either not legally permitted or required to indemnify, or is unable to indemnify, such **Insured Person** by reason of **Financial Impairment**. The Company's liability for all other covered **Loss** (as determined by Subsection 13 of this coverage section, if applicable) shall apply only to that part of **Loss** on account of each **Claim** which is excess of the applicable Retention set forth in Item 4 of the Declarations for this coverage section. Such Retention shall be reduced only by **Loss** otherwise covered under this coverage section and shall be borne by the **Insureds** uninsured and at their own risk.
- (d) If different parts of a single **Claim** are subject to different Retentions, the applicable Retentions will be applied separately to each part of such **Claim**, but the sum of such Retentions shall not exceed the largest applicable Retention.
- (e) All **Related Claims** shall be treated as a single **Claim** first made on the date the earliest of such **Related Claims** was first made, or on the date the earliest of such **Related Claims** is treated as having been made in accordance with Subsection 11(b) of this coverage section, regardless of whether such date is before or during the **Policy Period**.
- (f) The limit of liability available during the Extended Reporting Period (if exercised) shall be part of, and not in addition to, the Company's maximum aggregate limit of liability for all **Loss** on account of all **Claims** first made during the immediately preceding **Policy Period**.

Reporting and Notice

- 11. (a) The **Insureds** shall, as a condition precedent to exercising any right to coverage under this coverage section, give to the Company written notice of any **Fiduciary Claim** as soon as practicable, but in no event more than the earliest of the following dates:
 - (i) sixty (60) days after the date on which any **Organization's** chief financial officer, in-house general counsel, risk manager, president, chief executive officer or chairperson first becomes aware that the **Fiduciary Claim** has been made;
 - (ii) if this coverage section expires (or is otherwise terminated) without being renewed and if no Extended Reporting Period is purchased, sixty (60) days after the effective date of such expiration or termination; or
 - (iii) the expiration date of the Extended Reporting Period, if purchased;

provided that if the Company sends written notice to the **Parent Organization**, at any time before the date set forth in (i) above with respect to any **Claim**, stating that this coverage section is being terminated for non-payment of premium, the **Insureds** shall give to the Company written notice of such **Claim** prior to the effective date of such termination.



- (b) If during the **Policy Period** an **Insured**:
- (i) becomes aware of circumstances which could give rise to a **Fiduciary Claim** and gives written notice of such circumstances to the Company;
 - (ii) receives a written request to toll or waive a statute of limitations applicable to **Wrongful Acts** committed, attempted, or allegedly committed or attempted before or during the **Policy Period** and gives written notice of such request and of such alleged **Wrongful Acts** to the Company; or
 - (iii) gives written notice to the Company of a **Settlement Program Notice**,

then any **Claim** subsequently arising from the circumstances referred to in (i) above, from the **Wrongful Acts** referred to in (ii) above, or from the **Settlement Program Notice** referred to in (iii) above, shall be deemed to have been first made during the **Policy Period** in which the written notice described in (i), (ii) or (iii) above was first given by an **Insured** to the Company, provided any such subsequent **Claim** is reported to the **Company** as set forth in Subsection 11(a) above. With respect to any such subsequent **Claim**, no coverage under this coverage section shall apply to loss incurred prior to the date such subsequent **Claim** is actually made.

- (c) The **Insureds** shall, as a condition precedent to exercising any right to coverage under this coverage section, give to the Company such information and cooperation as the Company may reasonably require, and shall include in any notice under Subsection 11(a) or (b) a description of the **Claim** or circumstances, the nature of any alleged **Wrongful Acts**, the nature of the alleged or potential damage, the names of all actual or potential claimants, the names of all actual or potential defendants, and the manner in which such **Insured** first became aware of the **Claim** or circumstances.

Defense and Settlement

12. (a) The Company shall have the right and duty to defend any **Claim** covered by this coverage section, even if any of the allegations in such **Claim** are groundless, false or fraudulent. The Company's duty to defend any **Claim** shall cease upon exhaustion of the applicable Limit of Liability.
- (b) The Company may make any investigation it deems necessary and may, with the consent of the **Insured**, make any settlement of any **Claim** it deems expedient. If any **Insured** withholds consent to any settlement acceptable to the claimant in accordance with the Company's recommendation (a "Proposed Settlement"), the Company's liability for all **Loss**, including **Defense Costs**, from such **Claim** shall not exceed:
- (i) the amount of the Proposed Settlement plus **Defense Costs** incurred up to the date of the **Insured's** refusal to consent to the Proposed Settlement of such **Claim**; plus
 - (ii) seventy percent (70%) of any **Loss**, including **Defense Costs**, in excess of the amount referenced in paragraph (i) above, incurred in connection with such **Claim**; subject in all events to the applicable Retention and the available Limit

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of Liability for such Claim. The remaining thirty percent (30%) of any Loss, including Defense Costs, in excess of the amount referenced in paragraph (i) above will be borne by the Insured uninsured and at its own risk.

- (c) The Insureds agree not to settle or offer to settle any Claim, incur any Defense Costs or otherwise assume any contractual obligation or admit any liability with respect to any Claim without the Company's prior written consent, which shall not be unreasonably withheld. The Company shall not be liable for any Defense Costs, for any other element of Loss incurred, for any obligation assumed, or for any admission made, by any Insured without the Company's prior written consent.
- (d) The Insureds agree to provide the Company with all information, assistance and cooperation which the Company reasonably require and agree that in the event of a Claim the Insureds will do nothing that could prejudice the Company's position or its potential or actual rights of recovery.

Allocation

- 13. (a) If in any Claim the Insureds incur both Loss that is covered under this coverage section and loss that is not covered under this coverage section, either because such Claim includes both covered and non-covered matters or because such Claim is made against both Insureds and others, the Insureds and the Company shall allocate such amount between covered Loss and non-covered loss based on the relative legal and financial exposures of the parties to covered and non-covered matters and, in the event of a settlement in such Claim, based also on the relative benefits to the parties from such settlement. The Company shall not be liable under this coverage section for the portion of such amount allocated to non-covered loss.
- (b) If the Insureds and the Company cannot agree on an allocation of Loss:
 - (i) no presumption as to allocation shall exist in any arbitration, suit or other proceeding; and
 - (ii) the Company, if requested by the Insureds, shall submit the dispute to binding arbitration. The rules of the American Arbitration Association shall apply except with respect to the selection of the arbitration panel, which shall consist of one arbitrator selected by the Insureds, one arbitrator selected by the Company, and a third independent arbitrator selected by the first two arbitrators.

Other Insurance

- 14. If any Loss under this coverage section is insured under any other valid insurance policy(ies), then this coverage section shall cover such Loss, subject to its limitations, conditions, provisions and other terms, only to the extent that the amount of such Loss is in excess of the applicable retention (or deductible) and limit of liability under such other insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the Limits of Liability provided in this coverage section. Any payment by Insureds of a retention or deductible under such other insurance shall deplete, by the amount of such payment which would otherwise be covered under this coverage section, the applicable Retention under this coverage section.



Changes in Exposure

Acquisition/Creation of Another Organization

15. If before or during the **Policy Period** any **Organization**:

- (a) acquires securities or voting rights in another organization or creates another organization, which as a result of such acquisition or creation becomes a **Subsidiary**; or
- (b) acquires another organization by merger into or consolidation with an **Organization**, such that the **Organization** is the surviving entity,

such other organization and its **Insureds** shall be **Insureds** under this coverage section, but only with respect to **Wrongful Acts** committed, attempted, or allegedly committed or attempted after such acquisition or creation unless the Company agrees, after presentation of a complete application and all other appropriate information, to provide coverage by endorsement for **Wrongful Acts** committed, attempted, or allegedly committed or attempted before such acquisition or creation.

If the total assets of any such acquired organization or new **Subsidiary** exceed fifteen percent (15%) of the total assets of the **Parent Organization** (as reflected in the most recent audited consolidated financial statements of such organization and the **Parent Organization**, respectively, as of the date of such acquisition or creation), the **Parent Organization** shall give written notice of such acquisition or creation to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such acquisition or creation, together with such other information as the Company may require and shall pay any reasonable additional premium required by the Company. If the **Parent Organization** fails to give such notice within the time specified in the preceding sentence, or fails to pay the additional premium required by the Company, coverage for such acquired or created organization and its **Insureds** shall terminate with respect to **Claims** first made more than sixty (60) days after such acquisition or creation. Coverage for any acquired or created organization described in this paragraph, and for the **Insureds** of such organization, shall be subject to such additional or different terms, conditions and limitations of coverage as the Company in its sole discretion may require.

Acquisition by Another Organization

16. If:

- (a) the **Parent Organization** merges into or consolidates with another organization and the **Parent Organization** is not the surviving entity; or
- (b) another organization or person or group of organizations and/or persons acting in concert acquires securities or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than fifty percent (50%) of the outstanding securities or voting rights representing the present right to vote for the election of or to appoint directors or **Managers** of the **Parent Organization**,

Executive Protection PortfolioSM
Fiduciary Liability Coverage Section

coverage under this coverage section shall continue until termination of this coverage section, but only with respect to **Claims** for **Wrongful Acts** committed, attempted, or allegedly committed or attempted before such merger, consolidation or acquisition. Upon the occurrence of any event described in (a) or (b) of this Subsection 16, the entire premium for this coverage section shall be deemed fully earned.

The **Parent Organization** shall give written notice of such merger, consolidation or acquisition to the Company as soon as practicable, but in no event later than sixty (60) days after the date of such merger, consolidation, or acquisition, together with such other information as the Company may require. Upon receipt of such notice and information and at the request of the **Parent Organization**, the Company shall provide to the **Parent Organization** a quotation for an extension of coverage (for such period as may be negotiated between the Company and the **Parent Organization**) with respect to **Claims** for **Wrongful Acts** committed, attempted, or allegedly committed or attempted by **Insureds** before such merger, consolidation or acquisition. Any coverage extension pursuant to such quotation shall be subject to such additional or different terms, conditions and limitations of coverage and payment of such additional premium, as the Company in its sole discretion may require.

Cessation of Subsidiary

17. In the event an organization ceases to be a **Subsidiary** before or during the **Policy Period**, coverage with respect to such **Subsidiary** and its **Insureds** shall continue until termination of this coverage section, but only with respect to **Claims** for **Wrongful Acts** committed, attempted, or allegedly committed or attempted while such organization was a **Subsidiary**.

Termination of Plan

18. If an **Organization** terminates a **Plan** before or after the inception date set forth in Item 2 of the Declarations of the General Terms and Conditions, coverage under this coverage section with respect to such terminated **Plan** and its **Insureds** shall continue until termination of this coverage section for those who were **Insureds** prior to or at the time of such **Plan** termination or who would have been **Insureds** at the time of such termination if this coverage section had then been in effect. Such continuation of coverage shall apply with respect to **Claims** for **Wrongful Acts** committed, attempted, or allegedly committed or attempted prior to or after the date the **Plan** was terminated.

Creation or Acquisition of an ESOP

19. Notwithstanding anything in this coverage section to the contrary, if during the **Policy Period** the **Organization** creates or directly or indirectly acquires an employee stock ownership plan ("ESOP"), the **Organization** shall promptly give to the Company written notice thereof together with such other information requested by the Company. The Company shall, at the request of the **Organization**, provide to the **Organization** a quotation for coverage for **Claims** based upon, arising from, or in consequence of such ESOP, subject to such terms, conditions, limitations of coverage and such additional premium as the Company, in its sole discretion, may require. Unless the **Insureds** accept such quotation and pay such additional premium within thirty (30) days after receipt of the



quotation, no coverage will be available under this coverage section for **Claims** based upon, arising from or in consequence of such ESOP.

Representations and Severability

20. In issuing this coverage section the Company has relied upon the statements, representations and information in the **Application**. All of the **Insureds** acknowledge and agree that all such statements, representations and information (i) are true and accurate, (ii) were made or provided in order to induce the Company to issue this coverage section, and (iii) are material to the Company's acceptance of the risk to which this coverage section applies.

In the event that any of the statements, representations or information in the **Application** are not true and accurate, this coverage section shall be void with respect to (i) any **Insured** who knew as of the effective date of the **Application** the facts that were not truthfully and accurately disclosed (whether or not the **Insured** knew of such untruthful disclosure in the **Application**) or to whom knowledge of such facts is imputed, and (ii) the **Organization** to the extent it indemnifies an **Insured Person** who had such actual or imputed knowledge. For purposes of the preceding sentence:

- (a) the knowledge of any **Insured Person** who is a past, present or future chief financial officer, in-house general counsel, chief executive officer, president or chairperson of any **Organization** shall be imputed to such **Organization** and its **Subsidiaries** and their respective **Plans**;
 - (b) the knowledge of the person(s) who signed the **Application** for this coverage section shall be imputed to all of the **Insureds**; and
 - (c) except as provided in (a) above, the knowledge of an **Insured Person** who did not sign the **Application** shall not be imputed to any other **Insured**.
-

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

5720 S. UNIVERSITY AVE.

CHICAGO, ILL. 60637





ENDORSEMENT

Coverage Section: Executive Protection Portfolio Fiduciary Liability Coverage Section (Federal & Vigilant)

Effective date of

this endorsement: October 1, 2003

Co

Company: Federal Insurance Company

Endorsement No. 1

To be attached to and
form a part of Policy No. 8171-0131

Issued to: RCN Corporation

NEW JERSEY AMENDATORY ENDORSEMENT TO THE FIDUCIARY LIABILITY COVERAGE SECTION

In consideration of the premium charged, it is agreed that:

1. Subsection 9. Extended Reporting Period of the Fiduciary Liability Coverage Section is amended by deleting the first sentence thereof and replacing it with the following:

"If the Company or the Insureds terminate or refuse to renew this coverage section, the Parent Organization and the Insureds shall have the right, upon payment of the additional premium set forth in Item 6(B) of the Declarations for this coverage section, to an extension of the coverage granted by this coverage section for Claims that are (i) first made during the period set forth in Item 6(A) of the Declarations for this coverage section (the "Extended Reporting Period") following the effective date of termination or non-renewal, and (ii) reported to the Company in writing within the time provided in Subsection 11(a) of this coverage section, but only to the extent such Claims are for Wrongful Acts committed, attempted, or allegedly committed or attempted before the earlier of the effective date of termination or non-renewal or the date of the first merger, consolidation or acquisition event described in Subsection 16 below."

2. Subsection 9. Extended Reporting Period of the Fiduciary Liability Coverage Section is further amended by adding the following at the end of such Subsection:

"If money is owed to the Company under this policy, then such Extended Reporting Period will not become effective until all amounts due under this policy are paid and the premium for the Extended Reporting Period is paid when due. Any premium paid for the Extended Reporting Period will be applied first to amounts owed under this policy."

The policy is deemed to have been amended to the extent necessary to effect the purposes of this Amendatory Endorsement.

The regulatory requirements set forth in this Amendatory Endorsement shall supersede and take precedence over any provisions of the policy or any endorsement to the policy, whenever added, that are inconsistent with or contrary to the provisions of this Amendatory Endorsement, unless such policy or endorsement provisions comply with the applicable insurance laws of the state of New Jersey.

All other terms, conditions and limitations of this policy shall remain unchanged.

A handwritten signature in black ink, reading "Robert Hamburger". The signature is written in a cursive style with a large, looped initial "R".

Authorized Representative



ENDORSEMENT

Coverage Section: Executive Protection Portfolio Fiduciary Liability Coverage Section (Federal & Vigilant)

Effective date of
this endorsement: October 1, 2003

Company: Federal Insurance Company

Endorsement No. 2

To be attached to and
form a part of Policy No. 8171-0131

Issued to: RCN Corporation

SECURITIES-BASED CLAIM EXCLUSION, SUBLIMIT AND SEPARATE RETENTION ENDORSEMENT

In consideration of the premium charged, it is agreed that:

- (1) The term "**Securities-Based Claim**" means any **Claim** that is, in whole or in part, based upon, arising from, or in consequence of:
 - (a) any actual or alleged disclosure or nondisclosure of information relating to the value of securities issued by the **Organization** or relating to the **Organization's** financial or operational performance, condition or prospects; or
 - (b) any **Insured** authorizing, allowing, requiring or not prohibiting (i) the acquisition or holding by, or contribution to, any **Plan** of any securities issued by the **Organization**, or (ii) any participants in or beneficiaries of any **Plan** acquiring or holding in, or contributing to, their **Plan** accounts any securities issued by the **Organization**.
- (2) The Company shall have no liability under this coverage section to pay any **Loss** (other than **Defense Costs**) on account of any **Securities-Based Claim** if such **Securities-Based Claim**, or any other written demand or civil or administrative proceeding against an **Insured**, seeks or has sought relief for any purchaser or holder of securities issued by the **Organization** who is not a **Plan** participant or beneficiary based upon, arising from, or in consequence of any **Wrongful Acts**, facts, circumstances or situations described in 1(a) or 1(b) above or any related **Wrongful Acts**, facts, circumstances or situations.
- (3) The Company's maximum aggregate liability under this coverage section for all **Loss** on account of all **Securities-Based Claims** shall be ten million dollars (\$10,000,000) which amount is part of, and not in addition to, the Limits of Liability set forth in Items 3(A) and 3(B) of the **Declarations**.
- (4) Item 4 of the **Declarations** for this coverage section is amended to read in its entirety as follows:

Item 4. Retention:

(A) Insuring Clause 1 – Fiduciary Liability Coverage:

Securities-Based Claims: \$1,500,000
All other Claims: None

(B) Insuring Clause 2 – Voluntary Settlement Program Coverage: \$100,000

The title and any headings in this endorsement are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this policy shall remain unchanged.



Authorized Representative



ENDORSEMENT

Coverage Section: Executive Protection Portfolio Fiduciary Liability Coverage Section (Federal & Vigilant)

Effective date of
this endorsement: October 1, 2003

Company: Federal Insurance Company

Endorsement No. 3

To be attached to and
form a part of Policy No. 8171-0131

Issued to: RCN Corporation

AMEND BENEFITS DUE EXCLUSION ENDORSEMENT

In consideration of the premium charged, it is agreed that paragraph (b) of Subsection 5, Exclusions, of this coverage section is amended to read in its entirety as follows:

- (b) which constitutes (i) benefits due or to become due under any **Plan**, or (ii) benefits which would be due under any **Plan** if such **Plan** complied with all applicable law, including but not limited to **Loss** resulting from the payment of plaintiff attorneys' fees based upon a percentage of such benefits or payable from a common fund established to pay such benefits, except to the extent that:
 - (A) an **Insured** is a natural person and the benefits are payable by such **Insured** as a personal obligation; and
 - (B) recovery for the benefits is based upon a covered **Wrongful Act**; or

In the event that this endorsement conflicts with any other endorsement to this coverage section, this endorsement shall govern.

The title and any headings in this endorsement are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this policy shall remain unchanged.

A handwritten signature in black ink, appearing to read "Robert Hamburger". The signature is written in a cursive style with a large initial "R".

Authorized Representative



ENDORSEMENT

Coverage Section: Executive Protection Portfolio Fiduciary Liability Coverage Section (Federal & Vigilant)

Effective date of
this endorsement: October 1, 2003

Company: Federal Insurance Company

Endorsement No. 4

To be attached to and
form a part of Policy No. 8171-0131

Issued to: RCN Corporation

ADDITIONAL ORGANIZATION(S) AND SPONSORED PLAN(S) WITH PRIOR ACTS EXCLUSION ENDORSEMENT

In consideration of the premium charged, it is agreed that:

- (1) Item 5 of the Declarations for this coverage section is amended to include the following organization(s) (each an "Additional Organization"):

21st Centruy Telecom Group RLH Property Corporation
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Accordingly, the term **Organization**, as defined in Section 3, Definitions, of this coverage section, is amended to include the above-listed organization(s).

- (2) The term **Sponsored Plan**, as defined in Section 3, Definitions, of this coverage section, is amended to include the following plan(s), fund(s), or program(s) (each an "Additional Sponsored Plan"):

21st Century Telecom Group RLH Property Corporation
--

- (3) No coverage will be available under this coverage section for **Loss** on account of any **Fiduciary Claim** based upon, arising from, or in consequence of any **Wrongful Act** committed, attempted, or allegedly committed or attempted by any **Additional Organization** or any **Additional Sponsored Plan** or any past, present or future **Executive, Employee** or natural person trustee of any **Additional Organization** or any **Additional Sponsored Plan** prior to April 6, 2000.

The title and any headings in this endorsement are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this policy shall remain unchanged.

A handwritten signature in black ink, reading "Robert Hamburger". The signature is written in a cursive style with a large, looped initial "R".

Authorized Representative



ENDORSEMENT

Coverage Section: Executive Protection Portfolio Fiduciary Liability Coverage Section (Federal & Vigilant)

Effective date of
this endorsement: October 1, 2003

Company: Federal Insurance Company

Endorsement No. 5

To be attached to and
form a part of Policy No. 8171-0131

Issued to: RCN Corporation

AMEND SUBSECTION 20 ENDORSEMENT

In consideration of the premium charged, it is agreed that the second paragraph of Subsection 20. Representations and Severability of this coverage section is amended to read in its entirety as follows:

In the event that any of the statements, representations or information in the **Application** are not true and accurate, this coverage section shall be void with respect to (i) any **Insured Person** who knew as of the effective date of the **Application** the facts that were not truthfully and accurately disclosed (whether or not the **Insured Person** knew of such untruthful disclosure in the **Application**), (ii) any **Organization** or **Plan** to which knowledge of such facts is imputed, and (iii) any **Organization** to the extent it indemnifies an **Insured Person** who had knowledge of such facts, whether or not knowledge of such facts is also imputed to that **Organization**. For purposes of the preceding sentence:

- (a) the knowledge of any **Insured Person** who is a past, present or future chief financial officer, in-house general counsel, chief executive officer, president or chairperson of any **Organization** shall be imputed to such **Organization** and its **Subsidiaries** and their respective **Plans**; and
- (b) except as provided in (a) above, the knowledge of an **Insured Person** shall not be imputed to any other **Insured**.

The title and any headings in this endorsement are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this policy shall remain unchanged.

Robert Hamburger

Authorized Representative



Fiduciary Liability Excess Policy

Declarations

Insurance is provided by the following Company:

Zurich American Insurance Company

Policy Number: FLC 9006192 00

Item 1. Parent Company and address: RCN Corporation
105 Carnegie Center
Princeton, NJ 08540

Item 2. Limit of Liability: \$10,000,000
Note that the Limit of Liability is reduced or exhausted by Defense Costs.

Item 3. Underlying Insurance:

(A) Primary Policy:
Insurer

Policy Number

Limit of Liability

Chubb Group of Insurance Companies

8171-0131

\$10,000,000

(B) Other Policies:

Item 4. Policy Period: From 12:01 A.M. on October 01, 2003
To 12:01 A.M. on October 15, 2004
Local time at the address shown in Item 1.

Item 5. Endorsement(s) Effective at Inception: Numbers 1-4 as attached.

THIS POLICY IS WRITTEN ON A CLAIMS MADE BASIS. THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. PLEASE READ CAREFULLY

In witness whereof, the Underwriter issuing this policy has caused this policy to be signed by its authorized officers, but it shall not be valid unless also signed by the duly authorized representative of the Underwriter.

ZURICH AMERICAN INSURANCE COMPANY

Authorized Representative

3/31/04

Date

President

Corporate Secretary

Fiduciary Liability Excess Policy

Claims Made Coverage



In consideration of payment of the premium and in reliance upon all statements made and information furnished to the Zurich American Insurance Company (herein called the Underwriter) and to the Insurers of the Underlying Insurance, including the statements made in the application and its attachments and any material submitted therewith, all of which are made a part hereof, and subject to the Declarations and the limitations, conditions, provisions, and other terms of this policy (including any endorsements hereto), the Underwriter, the Parent Company and the Insureds agree as follows:

I. INSURING CLAUSE

The Underwriter shall provide the Insureds with insurance coverage during the Policy Period excess of the Underlying Insurance. Coverage under this policy shall attach only after all of the Limit(s) of Liability of Underlying Insurance has been exhausted by the actual payment of loss(es). Except as otherwise provided herein, coverage under this policy shall then apply in conformance with and subject to the warranties, limitations, conditions, provisions, and other terms of the Primary Policy as in effect the first day of the Policy Period, together with the warranties and limitations of any other Underlying Insurance. In no event shall coverage under this policy be broader than coverage under any Underlying Insurance.

II. DEFINITIONS

When used in this policy:

- A. **Insured**, either in the singular or plural, means those persons, organizations or benefit programs designated as insureds under the Primary Policy.
- B. **Parent Company** means the organization designated in Item 1 of the Declarations of this policy.
- C. **Policy Period** means the period of time specified in Item 4 of the Declarations of this policy, subject to prior termination in accordance with Subsection III.H. of this policy. If this period is less than or greater than one year, the Limit of Liability specified in Item 2 of the Declarations of this policy shall be the Underwriter's maximum limit of liability under this policy for the entire period.
- D. **Primary Policy** means the policy designated in Item 3(A) of the Declarations of this policy.
- E. **Underlying Insurance** means all of those policy(ies) designated in Item 3 of the Declarations of this policy.

III. GENERAL CONDITIONS AND LIMITATIONS

A. MAINTENANCE OF UNDERLYING INSURANCE

The Limit(s) of Liability of the Underlying Insurance scheduled in Item 3 of the Declarations of this policy shall be maintained during the Policy Period in full effect with solvent insurers except for any reduction or exhaustion of the aggregate Limit(s) of Liability available under the Underlying Insurance solely by reason of actual payment of loss(es) thereunder. Failure to comply with the foregoing shall not invalidate this policy but the Underwriter shall not be liable to a greater extent than if this condition had been complied with. To the extent that any Underlying Insurance is not so maintained, then the Insureds shall be deemed to be self-insured for the amount of the Limit(s) of Liability of any such Underlying Insurance.

In the event of a change to any Underlying Insurance by rewrite, endorsement or otherwise, coverage under this policy shall become subject to such change only if and to the extent the Underwriter's consent to such change is endorsed in writing to this policy. If such consent is not endorsed in writing on to this policy, the Underwriter shall not be liable to a greater extent than it would have been in the absence of such change to the Underlying Insurance.

B. REDUCTION/EXHAUSTION OF UNDERLYING LIMITS

In the event and only in the event of the reduction or exhaustion of the Limit(s) of Liability of the Underlying Insurance solely as the result of actual payment of loss covered thereunder, this policy shall: (i) in the event of reduction, pay excess of the reduced Limit(s) of Liability of the Underlying Insurance, and (ii) in the event of exhaustion, continue in force as primary insurance excess of the retention applicable in the Primary Policy, which retention shall be applied to any subsequent loss as specified in the Primary Policy.

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Notwithstanding any of the terms of this policy which might be construed otherwise, this policy shall drop down only in the event of reduction or exhaustion of the **Underlying Insurance** by the actual payment of loss and shall not drop down for any other reason including, but not limited to, uncollectibility (in whole or in part) of any **Underlying Insurance**. The risk of uncollectibility of such **Underlying Insurance** (in whole or in part) whether because of financial impairment or insolvency of the underlying insurer or for any other reason, is expressly retained by the Insureds and is not in any way or under any circumstances insured or assumed by the Underwriter.

C. LIMIT OF LIABILITY

The amount set forth in Item 2 of the Declarations is the maximum aggregate Liability of the Underwriter under this policy with respect to all claims first made during the **Policy Period** against all Insureds irrespective of the time of payment by the Underwriter. Defense Costs are part of and not in addition to the Limit of Liability and the payment by the Underwriter of Defense Costs reduces such Limit of Liability.

D. INVESTIGATION AND SETTLEMENT

The Underwriter may, at its sole discretion, elect to participate in the investigation, settlement or defense of any claim against any of the Insureds for matters covered by this policy even if the **Underlying Insurance** has not been exhausted and the Insureds shall give the Underwriter such information and cooperation as it may reasonably require.

E. SUBROGATION

In that this policy is "Excess Coverage," the Insureds' right of recovery against any person or entity may not be exclusively subrogated to the Underwriter. Therefore, in the event of any payment under this policy, the Underwriter will act in concert with all other interests (including the Insureds') concerned in the exercise of such rights of recovery. The apportioning of amounts which may be so recovered shall follow the principle that any interests (including the Insureds') that shall have paid an amount over and above any payment hereunder, shall first be reimbursed up to the amount paid by them; the Underwriter is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly the interests (including the Insureds') of which this coverage is in excess are entitled to claim the residue, if any. Expenses necessary to the recovery of any such amounts shall be apportioned between the interests (including the Insureds') concerned, in the ratio of their respective recoveries as finally settled.

F. NOTICE

The Insureds shall, as a condition precedent to exercising their rights under this policy, give to the Underwriter written notice of any claim or any situation that could give rise to a claim under this policy or any **Underlying Insurance** in the same manner required by the terms and conditions of the **Primary Policy**.

The Underwriter shall be given notice in writing as soon as practicable in the event of (a) the termination of any **Underlying Insurance**, (b) any additional or return premiums charged or allowed in connection with any **Underlying Insurance**, or (c) any change to the **Underlying Insurance** by rewrite, endorsement or otherwise. Written notice to the Underwriter shall be given to Zurich American Insurance Company, One Liberty Plaza, 30th Floor, New York, New York 10006, Attention Executive Assurance Department.

G. ALTERATION

No change in, modification of, or assignment of interest under this policy shall be effective except when made by a written endorsement to this policy which is signed by an authorized representative of the Underwriter.

H. POLICY TERMINATION

This policy shall terminate at the earliest of the following times:

1. the effective date of termination specified in written prior notice by the Parent Company to the Underwriter,
2. sixty (60) days after receipt by the Parent Company of a written notice of termination from the Underwriter.
3. upon expiration of the **Policy Period** as set forth in Item 4 of the Declarations,
4. ten (10) days after receipt by the Parent Company of a written notice of termination from the Underwriter for failure to pay a premium when due,
5. at such time as may be agreed upon by the Underwriter and the Parent Company.

The Underwriter shall refund the unearned premium computed at customary short rates if the policy is terminated by the Parent Company. Under any other circumstances the refund shall be computed pro rata.

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Endorsement #1

Exclusion of Certified Acts of Terrorism and Other Acts of Terrorism



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l Prem.	Return Prem.
FLC 9006192 00	10/01/2003	10/01/2003	10/15/2003	Aon Financial Services Group	0	0

Parent Company Insured and Mailing Address:

**RCN Corporation
105 Carnegie Center
Princeton, NJ 08540**

Producer:

**Aon Financial Services Group
707 Wilshire Blvd., Suite 6000
Los Angeles, CA 90017**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

It is agreed:

- A. The Underwriter shall not be liable under this policy for "Loss" on account of any "Claim" which is in whole or in part based upon, arising directly or indirectly out of or attributable to a "Certified Act of Terrorism" or an "Other Act of Terrorism" including any action taken in hindering or defending against an actual or expected "Certified Act of terrorism" or an "Other Act of Terrorism" regardless of any other cause or event that contributes concurrently or in any sequence to such "Loss" and/or "Claim". However, with respect to an "Other Act of Terrorism" this exclusion applies only when one or more of the following are attributed to such act:
1. The total of insured damages to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damages sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
 2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ; or
 3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
 4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or

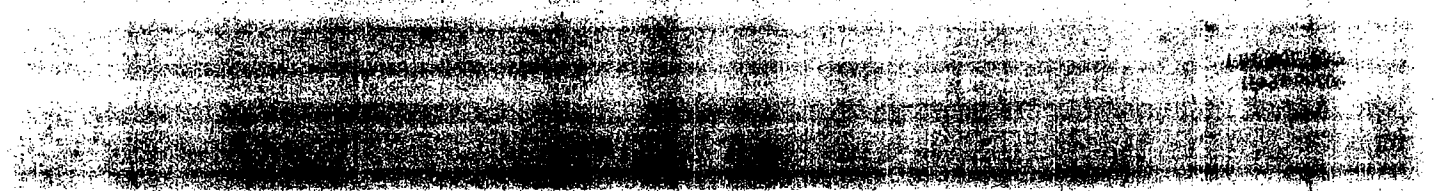
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5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs 1. and 2. above, describe the thresholds used to measure the magnitude of an incident of an "Other Act of Terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

B. For purposes of this exclusion, the following definitions are added:

1. "Certified Act of Terrorism" means an act that is certified by the Secretary of the Treasury of the United States, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002.
2. "Other Act of Terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or effect the conduct of any government by coercion, and the act is not a "Certified Act of Terrorism" certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. Multiple incidents of an "Other Act of Terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or common leadership shall be considered one incident.

C. In the event of any incident of an "Certified Act of Terrorism" or an "Other Act of Terrorism" that is not subject to this exclusion, coverage does not apply to any "Loss" or damage that is otherwise excluded under this policy.

All other terms, conditions and exclusions of the policy remain unchanged.



ZURICH

New Jersey Amendatory Endorsement

Parent Company: RCN Corporation

Effective Date of Endorsement: October 01, 2003

To be attached to and form
a part of Policy Number: FLC 9006192 00

Endorsement Number: 2

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Fiduciary Liability Policy

It is agreed that the Policy Termination section of this policy is deleted in its entirety and is replaced with the following:

- A. Pursuant to New Jersey law, this policy cannot be canceled or nonrenewed for any underwriting reason, guideline which arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the Insured. The underwriting reasons or guidelines that an Underwriter can use to cancel or nonrenew this policy are maintained by the Underwriter in writing and will be furnished to the Insured and/or the Insured's lawful representative upon written request.

This provision shall not apply to any policy which has been in effect for less than sixty (60) days at the time of notice of cancellation is mailed or delivered, unless the policy is a renewal policy.

B. CANCELLATION:

1. The Parent Company may cancel this policy by sending prior written notice of the effective date of termination to the Underwriter.
2. The Underwriter may cancel this policy only for nonpayment of premium.
3. If the Underwriter cancels this policy for nonpayment of premium, the Underwriter will mail or deliver a written notice, to the to the Parent Company and any person entitled to notice under this policy, at least ten (10) days before the effective date of cancellation. Notice will be sent to the last mailing addresses known to the Underwriter by certified mail, or first class mail, if the Underwriter has obtained from the post office a date stamped proof of mailing showing names and addresses.
4. In the notice of cancellation which is sent to the Parent Company, the Underwriter will state the reason for cancellation. For cancellation due to nonpayment of premium, the notice will state the effect of nonpayment by the due date. Cancellation for nonpayment of premium will not be effective if payment of the amount due is made before the effective date set forth in the notice.
5. The Underwriter need not send notice of cancellation if the Insured has replaced coverage elsewhere or specifically requested termination.
6. The Underwriter shall refund the unearned premium computed at customary short rates if the policy is terminated by the Parent Company. Under any other circumstances the refund shall be computed pro rata.
7. If notice is mailed, proof of mailing will be sufficient proof of notice.

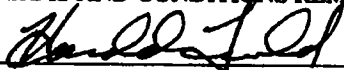
C. NONRENEWAL

1. If the Underwriter elects not to renew this policy, the Underwriter will mail by certified mail to the Parent Company, and mail to the agent, if any, written notice of nonrenewal. The Underwriter will mail this notice to the last mailing addresses known to the Underwriter at least thirty (30) days but no more than onehundredtwenty (120) days prior to the expiration of this policy. If this policy does not have a fixed expiration date, it shall be deemed to expire annually on the anniversary of its anniversary.
2. Notice will be sent to the last mailing addresses known to the Underwriter by certified mail, or first class mail, if the Underwriter has obtained from the post office a date stamped proof of mailing showing names and addresses.

3. If either one of the following occurs, the Underwriter is not required to provide written notice of nonrenewal:
- a. An Insured has obtained replacement coverage; or
 - b. Specifically requested termination.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

Signed by:



Authorized Representative

3/31/04

Date

Pending And Prior Litigation Exclusion (Fiduciary Liability)



Parent Company: RCN Corporation

Effective Date of Endorsement: October 01, 2003

To be attached to and form
a part of Policy Number: FLC 9006192 00

Endorsement Number: 3

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under:

Fiduciary Liability Excess Policy

It is agreed that:

The Underwriter shall not be liable for Loss on account of any Claim based upon, arising out of or attributable to any demand, suit or proceeding pending, or order, decree or judgment entered against the Insured on or prior to 09/30/1997 or the same or substantially the same fact, circumstance or situation underlying or alleged therein.

All other terms and conditions remain unchanged.

Signed by:


Authorized Representative

Date

3/31/04

Delete Primary Coverage



Parent Company: RCN Corporation

Effective Date of Endorsement: October 01, 2003

To be attached to and form
a part of Policy Number: FLC 9006192 00

Endorsement Number: 4

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under:

Fiduciary Liability Excess Policy

It is agreed that:

Coverage as is provided by Form #14-02-7307 to the Primary Policy shall not be provided by this policy.

All other terms and conditions remain unchanged.

Signed by:

Authorized Representative

Date

3/31/04

1000 1000 1000

1000 1000 1000 1000 1000 1000 1000 1000 1000 1000



PREMIUM BILL

Insured: RCN Corporation

Date: 04/22/2004

Producer: AON FINANCIAL SERVICES GROUP, INC
4100 E MISSISSIPPI #1300
DENVER, CO 802460000

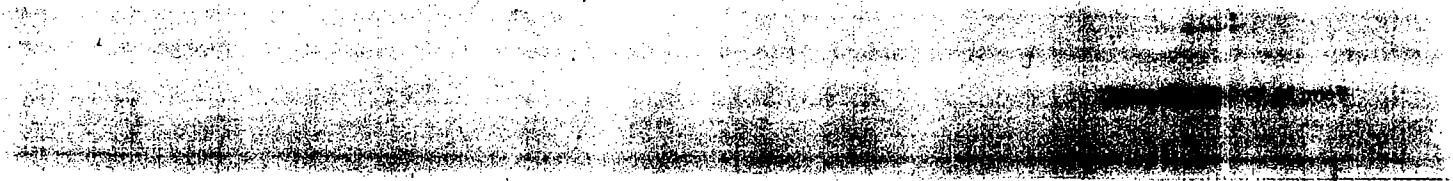
Company: Federal Insurance Company

THIS BILLING IS TO BE ATTACHED TO AND FORM A PART OF THE POLICY REFERENCED BELOW.

NOTE: PLEASE RETURN THIS BILL WITH REMITTANCE AND NOTE HEREON ANY CHANGES. BILL WILL BE RECEIPTED AND RETURNED TO YOU PROMPTLY UPON REQUEST.

PLEASE REMIT TO PRODUCER INDICATED ABOVE. PLEASE REFER TO 8173-7631

EFFECTIVE DATE	POLICY OR CERTIFICATE NUMBER	COVERAGE		PREMIUM
October 1, 2003	8173-7631	FLIPEXCB		\$8,500.00
to			SURCHARGE	\$21.25
October 15, 2004				
			TOTAL	\$8,521.25



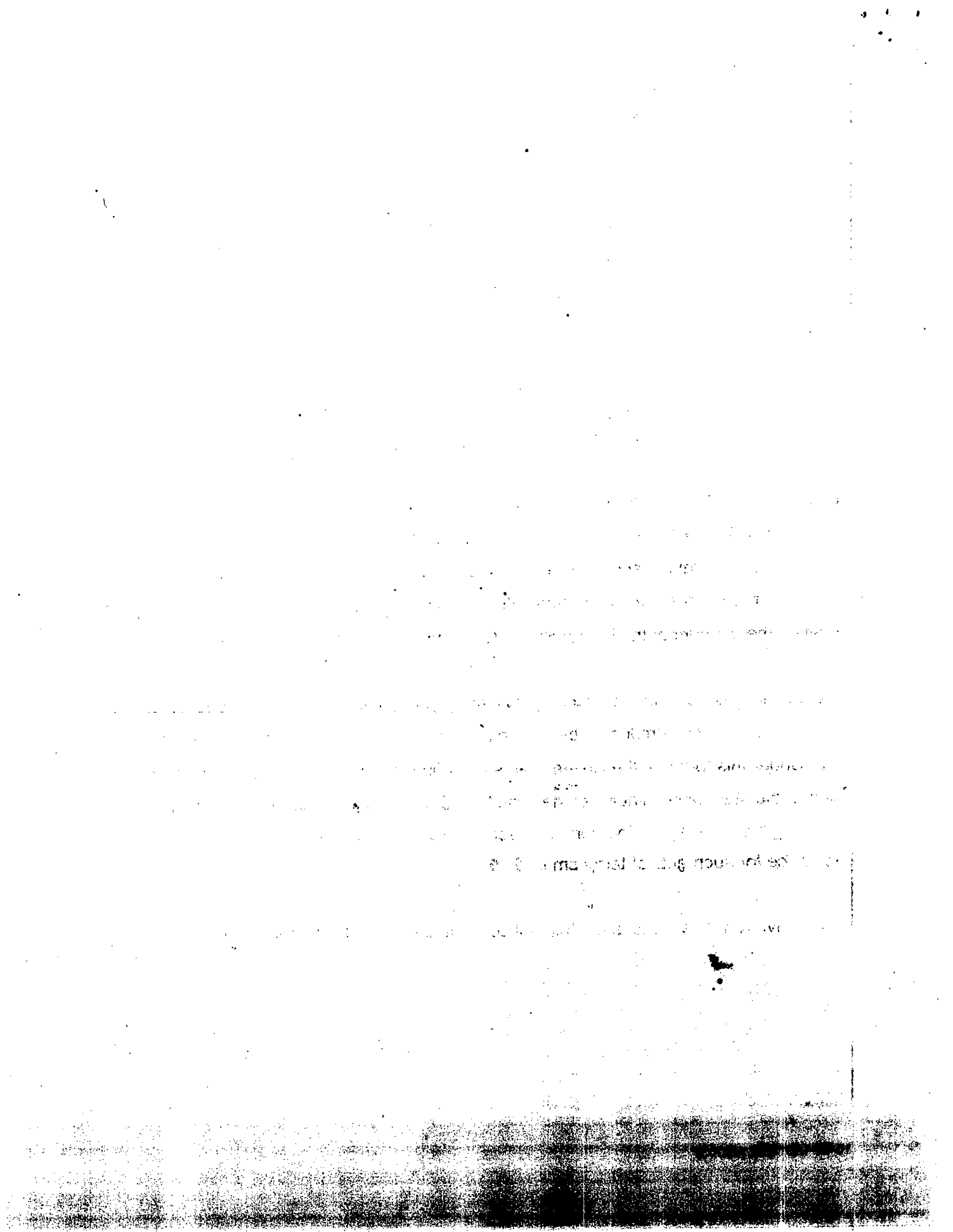


**POLICYHOLDER
DISCLOSURE NOTICE OF
TERRORISM INSURANCE COVERAGE**
(for policies with no terrorism exclusion or sublimit)

You are hereby notified that, under the Terrorism Risk Insurance Act of 2002 (the "Act") effective November 26, 2002, this policy makes available to you insurance for losses arising out of certain acts of international terrorism. Terrorism is defined as any act certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or the premises of a United States Mission; and to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

You should know that the insurance provided by your policy for losses caused by acts of terrorism is partially reimbursed by the United States under the formula set forth in the Act. Under this formula, the United States pays 90% of covered terrorism losses that exceed the statutorily established deductible to be paid by the insurance company providing the coverage. The portion of your policy's annual premium that is attributable to insurance for such acts of terrorism is: \$ -0-.

If you have any questions about this notice, please contact your agent or broker.





EXCESS POLICY

DECLARATIONS

Policy Number 8173-7631

Federal Insurance Company,
a stock insurance company,
incorporated under the laws of
Indiana, herein called the
Company.

Item 1. Parent Organization: RCN Corporation

Item 2. Principal Address: 105 Carnegie Center
Princeton, NJ 08540

Item 3. Limit of Liability:

Each Policy Period \$5,000,000.00

Item 4. Underlying Insurance:

(A) Primary Policy

<u>Insurer</u>	<u>Policy Number</u>	<u>Limits</u>	<u>Policy Period</u>
Federal Insurance Company	81710131	\$10,000,000.00	10/01/03 To 10/15/04

(B) Other Policies

<u>Insurer</u>	<u>Policy Number</u>	<u>Limits</u>	<u>Policy Period</u>
Zurich American Insurance Co.	FLC9006192 00	\$10,000,000.00	10/01/03 To 10/15/04

Item 5. Policy Period: From: 12:01 a.m. on October 1, 2003
To: 12:01 a.m. on October 15, 2004

Item 6. Endorsements Effective at Inception: See Schedule of Forms Attached

Item 7. Termination of Prior Policies: X New Business .

Item 8. Pending or Prior Date: 09/30/1997

The Company issuing this policy has caused this policy to be signed by its authorized officers, but it shall not be valid unless also signed by a duly authorized representative of the Company.

FEDERAL INSURANCE COMPANY

Henry A. Aulick

Secretary

Thomas F. Molander

President

04/22/2004

Date

Robert Hamburger

Authorized Representative



Excess Policy

In consideration of the payment of the premium and subject to the Declarations, limitations, conditions, provisions and other terms of this policy, the Company agrees as follows:

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| Insuring Clause | 1. The Company shall provide the Insureds with insurance during the Policy Period excess of the Underlying Limit . Coverage hereunder shall attach only after the insurers of the Underlying Insurance shall have paid in legal currency the full amount of the Underlying Limit for such Policy Period . Coverage hereunder shall then apply in conformance with the terms and conditions of the Primary Policy as amended by any more restrictive terms and conditions of any other policy designated in Item 4(B) of the Declarations, except as otherwise provided herein. |
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| Maintenance of Underlying Insurance | 2. All Underlying Insurance shall be maintained in full effect during the Policy Period and shall afford the same coverage provided by all Underlying Insurance in effect upon inception of this Policy Period , except for any depletion or exhaustion of the Underlying Limit solely by reason of payment of losses thereunder. |
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|--------------------------------------|--|
| Depletion of Underlying Limit | 3. Only in the event of exhaustion of the Underlying Limit by reason of the insurers of the Underlying Insurance , or the Insureds in the event of financial impairment or insolvency of an insurer of the Underlying Insurance , paying in legal currency loss which, except for the amount thereof, would have been covered hereunder, this policy shall continue in force as primary insurance, subject to its terms and conditions and any retention applicable to the Primary Policy , which retention shall be applied to any subsequent loss in the same manner as specified in the Primary Policy .

The risk of uncollectability of any Underlying Insurance , whether because of financial impairment or insolvency of an underlying insurer or any other reason, is expressly retained by the Insureds and is not in any way insured or assumed by the Company. |
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| Underlying Sublimits | 4. If any Underlying Limit is subject to a Sublimit :

a. coverage hereunder shall not apply to any claim which is subject to such Sublimit , however,

b. the Underlying Limit shall be recognized hereunder as depleted to the extent of any payment of such claim subject to such Sublimit . |
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| Limit of Liability | 5. The Company's maximum liability for loss shall be the amount set forth in Item 3 of the Declarations. |
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- | | |
|----------------------------|--|
| Claim Participation | 6. The Company may, at its sole discretion, elect to participate in the investigation, settlement or defense of any claim covered by this policy even if the Underlying Insurance has not been exhausted. |
|----------------------------|--|
-

Pending or Prior Matters

7. The Company shall not be liable under this policy for any loss which is based upon, arises from or is in consequence of any demand, suit or other proceeding pending, or order, decree or judgment entered against any **Insured** on or prior to the Pending or Prior Date set forth in Item 8 of the Declarations, or the same or any substantially similar fact, circumstance or situation underlying or alleged therein.

Subrogation - Recoveries

8. In the event of any payment under this policy, the Company shall be subrogated to the extent of such payment to all the **Insureds'** rights of recovery and the **Insureds** shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable the Company effectively to bring suit in the name of the **Insured**.

Any amounts recovered after payment of loss hereunder shall be apportioned in the inverse order of payment to the extent of actual payment. The expenses of all recovery proceedings shall be apportioned among the recipients of the recovery in the ratio of their respective recoveries.

Notice

9. The **Insureds** shall, as a conditions precedent to exercising their rights under this policy, give to the Company written notice as soon as practicable of the cancellation of any **Underlying Insurance**, any notice given under any **Underlying Insurance** and additional or return premiums charged or paid in connection with any **Underlying Insurance**.

Notice to the Company under this policy shall be given in writing addressed to:

Notice of claim: Home Office Claims Department
Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

All other notices: Executive Protection Practice
Chubb Group of Insurance Companies
15 Mountain View Road
Warren, New Jersey 07059

Such notice shall be effective on the date of receipt by the Company at such address.

Company Authorization Clause

10. By acceptance of this policy, the **Parent Organization** named in Item 1 of the Declarations agrees to act on behalf of all the **Insureds** with respect to the giving and receiving of notice of claim or termination, the payment of premiums and the receiving of any return premiums that may become due under this policy, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for under this policy (except the giving of notice to apply for any extended reporting period), and the **Insureds** agree that the **Parent Organization** shall act on their behalf.

Alteration

11. No change in, modification of, or assignment of interest under this policy shall be effective except when made by written endorsement to this policy which is signed by an authorized representative of the Company.



Excess Policy

Policy Termination

12. This policy shall terminate at the earliest of the following times:
- (a) sixty days after the receipt by the **Parent Organization** of a written notice of termination from the Company;
 - (b) upon the receipt by the Company of written notice of termination from the **Parent Organization**;
 - (c) upon expiration of the **Policy Period**;
 - (d) thirty days after the effective date of any alteration or termination of any **Underlying Insurance**, whether by the **Insureds** or any insurer of the **Underlying Insurer**, unless the Company (i) receives written notice of such alteration or termination from the **Parent Organization**, (ii) receives such information as the Company reasonably requests, and (iii) agrees, pursuant to an endorsement, not to terminate this policy; or
 - (e) at such other time as may be agreed upon by the Company and the **Parent Organization**.

Notice of cancellation or non-renewal of the **Primary Policy** duly given by the primary insurer shall serve as notice of the cancellation or non-renewal of this policy by the Company.

The Company shall refund the unearned premium computed at customary short rates if the policy is terminated by the **Parent Organization**. Under any other circumstances the refund shall be computed pro rata.

Termination of Prior Policies

13. Any policies specified in Item 7 of the Declarations shall terminate, if not already terminated, as of the inception date of this policy.

Policy Definitions

14. When used in this policy:

Insureds means those persons or organizations insured under the **Primary Policy**.

Parent Organization means the organization designated in Item 1 of the Declarations.

Primary Policy means the policy scheduled in Item 4(A) of the Declarations or any policy of the same insurer replacing or renewing such policy.

Policy Period means the period of time specified in Item 5 of the Declarations, subject to prior termination in accordance with Section 12 above. If any extended reporting period is exercised, such extension shall be treated as set forth in the **Primary Policy**.

Sublimit means any **Underlying Insurance** limit of liability which:

- a. applies only to a particular grant of coverage under such **Underlying Insurance**, and
- b. reduces and is part of the otherwise applicable limits of liability of such **Underlying Insurance** set forth in Item 4 of the Declarations.

Policy Definitions
(continued)

Underlying Insurance means all policies scheduled in Item 4 of the Declarations and any policies of the same insurers replacing or renewing them.

Underlying Limit means the amount equal to the aggregate of all limits of liability as set forth in Item 4 of the Declarations for all **Underlying Insurance**, subject to any **Sublimits**, plus the applicable uninsured retention, if any, under the **Primary Policy**.



Pension and Welfare Benefit Plan Fiduciary Liability Insurance Excess Chubb

To be attached to and form part of
Policy No. 8173-7631

Company: Federal Insurance Company

Issued to: RCN Corporation

QRCNCORP (3/04 ed.)



ENDORSEMENT

Effective date of
this endorsement: October 1, 2003

Company: Federal Insurance Company

Endorsement No. 1

To be attached to and
form a part of Policy No. 8173-7631

Issued to: RCN Corporation

NOT FOLLOW FORM ENDORSEMENT

In consideration of the premium charged, it is agreed that:

- (1) In consideration of the premium charged, it is agreed that the Company shall not provide the **Insureds** with insurance excess of or in conformance with the terms and conditions set forth in Endorsement(s) No. 2 of the **Primary Policy**.
- (2) No coverage will be available under this coverage section for any **Securities-Based Claim** if such **Securities-Based Claim**, or any other written demand or civil or administrative proceeding against an **Insured**, seeks or has sought relief for any purchaser or holder of securities issued by the Organization (as such term is defined in the **Primary Policy**) who is not a Plan (as such term is defined in the **Primary Policy**) participant or beneficiary based upon, arising from, or in consequence of any Wrongful Acts (as such term is defined in the **Primary Policy**), facts, circumstances or situations described in 1(a) or 1(b) above or any related Wrongful Acts (as such term is defined in the **Primary Policy**), facts, circumstances or situation.
- (3) The term "**Securities-Based Claim**" means any Claim (as such term is defined in the **Primary Policy**) that is, in whole or in part, based upon, arising from, or in consequence of:
 - (a) any actual or alleged disclosure or nondisclosure of information relating to the value of securities issued by the Organization (as such term is defined in the **Primary Policy**) or relating to the Organization's (as such term is defined in the **Primary Policy**) financial or operational performance, condition or prospects; or
 - (b) any **Insured** authorizing, allowing, requiring or not prohibiting (i) the acquisition or holding by, or contribution to, any Plan (as such term is defined in the **Primary Policy**) of any securities issued by the Organization (as such term is defined in the **Primary Policy**), or (ii) any participants in or beneficiaries of any Plan (as such term is defined in the **Primary Policy**) acquiring or holding in, or contributing to, their Plan (as such term is defined in the **Primary Policy**) accounts any securities issued by the Organization (as such term is defined in the **Primary Policy**).
- (4) For the purposes of determining when coverage under this policy shall attach, the limit or limits of liability of the **Underlying Insurance** shall not be deemed to have been reduced, depleted or

exhausted by any payment of loss or defense expenses under the **Underlying Insurance** as to which the Company would not be liable to make any payment under this policy by reason of paragraph (1) or (2) of this endorsement.

The title and any headings in this endorsement are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this policy shall remain unchanged.

A handwritten signature in cursive script that reads "Robert Hamburger".

Authorized Representative

EXHIBIT “B”

TIME: 14:58:18
DATE: 03/28/05

RCN CORPORATION

PAGE: 1

828 S. WABASH, LLC ALL RACK ANDREWS KURTH LLP ARNALL GOLDEN GREGORY LLP	40 E. 9TH ST., UNIT 1516, CHICAGO, IL 60605 361 WEST 36TH STREET, NEW YORK, NY 10018 ATTN: PETER S. GOODMAN, ESQ., (COUNSEL TO WELLS FARGO AND COMPANY), 450 LEXINGTON AVENUE, NEW YORK, NY 10017 ATTN: FRANK N. WHITE, ESQ., DARRYL S. LADDIN, ESQ., (COUNSEL TO VERIZON OPERATING TELEPHONE COMPANIES), 171 17TH STREET NW, SUITE 2100, ATLANTA, GA 30363-1031 4801 MAIN ST 1000, KANSAS CITY, MO 641122551 ATTN: MICHAEL S. SIMON, ESQ. (COUNSEL FOR HUDSON TELEGRAPH ASSOCIATES, L.P.), 405 LEXINGTON AVENUE, NEW YORK, NY 10174 1455 N. SANDBURG TERRACE, CHICAGO, IL 60610 3018 AVE I, BROOKLYN, NY 11210 322 SOUTH GREEN STREET, ATTN: BARBARA POPOVIC, CHICAGO, IL 60607 ATTN: ESTHER E. TRYBAN TELSER, CITY OF CHICAGO DEPARTMENT OF LAW, 30 N. LASALLE; ROOM 900, CHICAGO, IL 60602 THE CABLE ADMINISTRATOR (AREA 1), 33 NORTH LASALLE STREET, CHICAGO, IL 60602 THE CABLE ADMINISTRATOR (AREA 2), 33 NORTH LASALLE STREET, CHICAGO, IL 60602 ATTN: MARA GEORGES, DIANE PEZANOKSI,, WEST ON HANSCOM, ESTHER TRYBAN- TELSER,, 30 NORTH LASALLE STREET, SUITE 900, CHICAGO, IL 60602 PO BOX 905143, CHARLOTTE, NC 28290 FORREST, LLP (COUNSEL TO AFFINITAS CORPORATION), ATTN: CLAY M. ROGERS, GRANT A. FORSBERG, 8712 W. DODGE ROAD, SUITE 400, OMAHA, NE 68114-3431 5750 WILSHIRE BLVD., 4TH FLOOR, ATTN: MITCH KARP, ESQ., LOS ANGELES, CA 90048 445 12TH STREET, SW, WASHINGTON, DC 20554 330 W. 38TH ST, NEW YORK, NY 10018 ATTN: RICHARD MILLER & THOMAS WEBER, THE MET LIFE BUILDING, 200 PARK AVENUE, NEW YORK, NY 10166 ATTN: ANDREW ENSCHEDÉ, 77 WEST WACKER DRIVE, SUITE 2500, CHICAGO, IL 60601 B. MARK NORDMAN, 2150 COLORADO AVE., SANTA MONICA, CA 90404 ATTN: ALAN D. HALPERIN, ESQ., ETHAN D. GANC, ESQ., 555 MADISON AVENUE - 9TH FLOOR, NEW YORK, NY 10022 ATTN: MS. SANDRA E. HORWITZ, 452 FIFTH AVENUE, NEW YORK, NY 10018-2706 ATTN: ISSUER SERVICES, 452 FIFTH AVENUE, NEW YORK, NY 10018 INSOLVENCY UNIT, 290 BROADWAY, 5TH FLOOR, NEW YORK, NY 10007 C/O STEVEN W. MEYER, ESQ., OPPENHEIMER WOLFF & DONNELLY LLP, 3300 PLAZA VII 45 SOUTH SEVENTH ST, MINNEAPOLIS, MN 55402 10960 WILSHIRE BLVD, LOS ANGELES, CA 90024 54 WEST 18TH STREET #16J, NEW YORK, NY 10011 3 FIRST NATIONAL PLAZA, SUITE 4100 70 WEST MADISON STREET, ATTN: DANIEL A. ZAZOVE, ESQ., CHICAGO, IL 60602 1999 AVENUE OF THE STARS, 17TH FLOOR, ATTN: STEVEN F. WERTH, ESQ., LOS ANGELES, CA 90067 ATTN: DAVID E. RETTER, ESQ., DEBRA SUDOCK, ESQ., (COUNSEL TO HSBC BANK USA, AS INDENTURE TRUSTEE), 101 PARK AVENUE, NEW YORK, NY 10178 ATTN: MARK R. SOMERSTEIN, ESQ., ANNE H. PAK, ESQ., (COUNSEL TO HSBC BANK USA, AS COLLATERAL AGENT), 101 PARK AVENUE, NEW YORK, NY 10178 ATTN: ERIC D. STATMAN, ESQ., (COUNSEL TO NORTEL NETWORKS, INC.), 900 THIRD AVENUE, 16TH FLOOR, NEW YORK, NY 10022 (ATTORNEYS FOR AT&T), ATTN: VINCENT A. D'AGOSTINO, ESQ., 65 LIVINGSTON AVENUE, ROSELAND, NJ 07068 CORPORATION COUNSEL OF THE CITY OF NEW YORK, ATTN: GABRIELA P. CACUCI, ESQ., 100 CHURCH STREET, NEW YORK, NY 10007 ATTN: DENNIS DUNNE, ESQ., 1 CHASE MANHATTAN PLAZA, NEW YORK, NY 10005 ATTN: DEIDRE A. SULLIVAN, ESQ., 1 CHASE MANHATTAN PLAZA, NEW YORK, NY 10005 ATTN: JASON C. DIBATTISTA, ESQ., (COUNSEL TO A&E TELEVISION NETWORKS), 1290 AVENUE OF THE AMERICAS, NEW YORK, NY 10104 ATTN: BEN H. LOGAN, ESQ., EMILY CULLER, ESQ., (COUNSEL TO VULCAN VENTURES CAPITAL), 400 SOUTH HOPE STREET, LOS ANGELES, CA 90071-2899 ATTN: DAVID W. DYKHOUSE, (COUNSEL TO DOLP 1133 PROPERTIES LLC), 1133 AVENUE OF THE AMERICAS, NEW YORK, NY 10036-6710 ATTN: MICHAEL K. CHERNICK, ESQ., 75 E. 55TH STREET, FIRST FLOOR, NEW YORK, NY 10022 ATTN: HARVEY A. STRICKON, ESQ., (COUNSEL TO EVERGREEN FUNDS), 75 EAST 55TH STREET, NEW YORK, NY 10022-3205 29605 LORAIN ROAD, NORTH OLMDSTED, OH 44070 504 JANE ST., FORT LEE, NJ 07024 311 WEST 43RD ST, NEW YORK, NY 10036 ATTN: GENERAL COUNSEL, 105 CARNEGIE CENTER, PRINCETON, NJ 08540 ATTN: ELENA LAZAROU, ESQ. (COUNSEL FOR GENERAL ELECTRIC CAPITAL CORPORATION), 599 LEXINGTON AVENUE, NEW YORK, NY 10022 233 BROADWAY, SUITE 600, NEW YORK, NY 10279 732 W BROADWAY, FULTON, NY 13069 ATTN: PETER V. PANTALEO, ESQ., 425 LEXINGTON AVENUE, NEW YORK, NY 10017-3954 ATTN: BENNETT S. SILVERBERG, FOUR TIMES SQUARE, 26-412, NEW YORK, NY 10036 ATTN: FREDERICK MORRIS, ESQ., FOUR TIMES SQUARE, NEW YORK, NY 10036-6522 ATTN: JAY M. GOFFMAN, ESQ., FOUR TIMES SQUARE, NEW YORK, NY 10036-6522 ATTN: KRIS AGARWAL, FOUR TIMES SQUARE, NEW YORK, NY 10036-6522 ATTN: ADRIANA SALAZAR, RM 26-413, FOUR TIMES SQUARE, NEW YORK, NY 10036-6522 ATTN: BRIAN P. KELLY, RM 35-220, FOUR TIMES SQUARE, NEW YORK, NY 10036-6522 901 SOUTH ASHLAND, ATTN: JIM ADDAUTE, CHICAGO, IL 60607 5000 SOUTH CORNELL, CHICAGO, IL 60615 535 N. MICHIGAN AVE, CHICAGO, IL 60611 850 N. STATE ST., CHICAGO, IL 60610 4917 S. DREXEL, CHICAGO, IL 60615 ATTN: PAUL K. SCHWARTZBERG, ESQ., 33 WHITEHALL STREET, 21ST FLOOR, NEW YORK, NY 10004 33 WHITEHALL STREET, 21ST FLOOR, ATTN: PAUL K. SCHWARTZBERG, NEW YORK, NY 10004
BLACKWELL SANDERS PEPPER MARTIN LLP BLANK ROME LLP CARL SANDBURG VILLAGE CONDOMINIUM ASSOCIATION II CHARLES, CHRISTOPHER CHICAGO ACCESS CORPORATION (AREA 2) CITY OF CHICAGO CITY OF CHICAGO CITY OF CHICAGO CITY OF CHICAGO	
DHL EXPRESS (USA), INC. DWYER, SMITH, GARDNER, LAZER, POHREN, ROGERS &	
EI ENTERTAINMENT TELEVISION, INC. FEDERAL COMMUNICATIONS COMMISSION GOTHAM SOUND & COMMUNICATIONS GREENBERG TRAURIG, LLP GREENBERG TRAURIG, LLP GSN, BUSINESS AND LEGAL AFFAIRS HALPERIN & ASSOCIATES HSBC BANK USA HSBC BANK USA, AS INDENTURE TRUSTEE INTERNAL REVENUE SERVICE INTERNATIONAL BUSINESS MACHINES CORPORATION INTERNATIONAL FAMILY ENTERTAINMENT INC/ ABC FAMILY JOHN CLIFFORD PHOTOGRAPHY KAYE SCHOLER LLP KAYE SCHOLER LLP KELLEY DRYE & WARREN LLP	
KELLEY DRYE & WARREN LLP	
LOVELLS LOWENSTEIN SANDLER PC MICHAEL A. CORDOZO MILBANK, TWEED, HADLEY & MCCLOY LLP MILBANK, TWEED, HADLEY & MCCLOY LLP MORRISON & FOERSTER LLP O'MELVENY & MYERS LLP	
PATTERSON, BELKNAP, WEBB & TYLER LLP PAUL, HASTINGS, JANOFSKY & WALKER LLP PAUL, HASTINGS, JANOFSKY & WALKER LLP PHANTOM POWER, GRIP & ELECTRIC PHOTOBITION BONDED SERVICES PROFESSIONAL SOUND SERVICES RCN CORPORATION REED SMITH LLP SECURITIES AND EXCHANGE COMMISSION SHIP-IT SIMPSON, THACHER & BARTLETT LLP SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP TAYLOR PLACE APARTMENTS THE 5000 SOUTH CORNELL CONDOMINIUM ASSOCIATION THE 535 NORTH MICHIGAN AVE CONDOMINIUM ASSOC THE CHESTNUT PLACE ASSOCIATES THE DREXEL TOWERS APARTMENTS THE OFFICE OF THE UNITED STATES TRUSTEE THE OFFICE OF THE UNITED STATES TRUSTEE	

TIME: 14:58:18

RCN CORPORATION

DATE: 03/28/05

PAGE: 2

THE SIEGE PERILOUS LLC	108 CALYER STREET #4R, BROOKLYN, NY 11222
THE WEEKS-LERMAN GROUP, LLC	58-38 PAGE PL., PO BOX O, MASPETH, NY 11378
TOWN MANAGEMENT CORP	1550 N NORTHWEST HWY STE 209, PARK RIDGE, IL 600681459
TUDOR INVENSTMENT CORP.	ATTN: DARRYL L. SCHALL, ANALYST, 1275 KING STREET, GREENWICH, CT 06831
UNITED STATES ATTORNEY FOR THE	UNITED STATES ATTY OFF USDOJ OFFICE, 86 CHAMBERS ST 3, NEW YORK, NY 100071826
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY	D. SCOTT BARASH, V.P. & GENERAL COUNSEL, 2000 L STREET, NW, SUITE 200, WASHINGTON, DC 20036
US FUND FOR UNICEF	681 MAIN ST, PO BOX 346, LUMBERTON, NJ 08048
WEINER & LAURIN, LLP	ATTN: PAUL J. LAURIN, ESQ., (COUNSEL TO FOX CABLE NETWORKS GROUP), 15760 VENTURA BLVD., SUITE 1727, ENCINO, CA 91436-2152
WILLKIE FARR & GALLAGHER LLP	787 SEVENTH AVENUE, ATTN: STEVEN WILAMOWSKY, ESQ., NEW YORK, NY 10019
YORK CAPTIAL MANAGEMENT	ATTN: ERIC EDIDIN, 390 PARK AVENUE, 15TH FLOOR, NEW YORK, NY 10022

Total Records Printed ==> 73

EXHIBIT “C”

James I. Stempel, Esq.
New York Specialty Claims
Chubb & Son
55 Water Street
New York, NY 10041-2899