

F96000002342

RECEIVED

1994 JUL 19 AM 10:44
DIVISION OF CORPORATION

C T CORPORATION SYSTEM
Requester's Name
1311 Executive Center Drive, Ste. 200
Address
Tallahassee, Fla. 32301 (904) 656-0290
City State Zip Phone

500001334245
-11/18/94--01067--001
*****70.00 *****70.00

CORPORATION(S) NAME

W94-15771

400001741164
-03/13/96--01035--021
****4596.25 ****4596.25

Scotts - Sierra Horticultural Products Company

☒ Profit
☐ NonProfit

☐ Amendment

☐ Merger

☒ Foreign

☐ Dissolution/Withdrawal

☐ Mark

☐ Limited Partnership

☐ Annual Report

☐ Other

☐ Reinstatement

☐ Reservation

☐ Change of H.A.

☐ Certified Copy

☐ Photo Copies

☐ Fictitious Name

☐ CUS / G/S

☐ Call When Ready

☐ Call if Problem

☐ After 4:30

☒ Walk In

☒ Will Wait

☐ Pick Up

☐ Mail Out

Name
Availability
Document Examiner
Updater
Verifier
Acknowledgment
W.P. Verifier

7/19/94
11:00

PLEASE RETURN EXTRA COPY(S) FILE STAMPED

95/10
FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAY 10 AM 9:14

CH2E031 (1-89)



FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

July 19, 1994

CT CORPORATION SYSTEM

SUBJECT: SCOTTS-SIERRA HORTICULTURAL PRODUCTS COMPANY
Ref. Number: W94000015771

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
95 JUL 10 AM 9:14

We have received your document for SCOTTS-SIERRA HORTICULTURAL PRODUCTS COMPANY and your check(s) totaling \$70.00 . However, the document has not been filed and is being retained in this office for the following:

Based upon information provided by the Florida Department of Revenue, pursuant to section 213.053(14), Florida Statutes, it appears that SCOTTS-SIERRA HORTICULTURAL PRODUCTS COMPANY has transacted business in Florida prior to submitting an "Application for Authority to Transact Business in Florida". The information received from the Florida Department of Revenue indicates July 1, 1978, as the initial date of transacting business in the State of Florida. Please contact this office concerning the date first transacted business in Florida.

Section 607.1502(4), Florida Statutes, requires this office to collect a \$500 penalty fee for each year this entity transacted business in Florida prior to qualification and the appropriate charter tax and annual report fees that would have been due this office had the corporation qualified the year it began operations in this state. Please complete the enclosed form INHSE37 and contact this office for the charter tax due. The amount entitled this office in annual report fees and penalty fees is \$8881.25.

Enclosed please find a copy of section 607.1501 or 617.1501, Florida Statutes, which lists those activities that do not constitute transacting business or conducting affairs in this state. If after reviewing this section you determine erroneous information was inserted on the application, a sworn affidavit containing the following information must be submitted: 1.) a statement indicating erroneous information was listed on the application; and 2.) the correct date the corporation began transacting business or conducting its affairs in Florida prior to the year the application was submitted did not constitute transacting business or conducting affairs pursuant to section 607.1501 or 617.1501, Florida Statutes.

If it is determined that the corporation's previous activities in Florida that warranted compliance with Florida's revenue laws did not constitute the transaction of business within the meaning of s. 607.1501, F.S., please provide a



FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

sworn affidavit to that effect.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (904) 487-6095.

Jennifer Sindt
Document Examiner

Letter Number: 794A00033213

The Scotts Company

and Subsidiaries

Scotts

Christiane W. Schmenk
Associate General Counsel

November 14, 1994

Florida Secretary of State
Division of Corporations
Attention: Legal Department
P. O. Box 6327
Tallahassee, Florida 32314

RE: Scotts-Sierra Horticultural Products Company
Reference No. W94000015771

Dear Sir or Madam:

I am Associate General Counsel of The Scotts Company, which is the parent of a California corporation known as "Scotts-Sierra Horticultural Products Company". I am writing to you in regard to the enclosed letter from one of your document examiners, Jennifer Sindt. I am also copying Ms. Sindt on this letter in hopes of quickly resolving this matter.

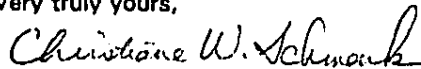
The Scotts Company acquired Scotts-Sierra Horticultural Products Company ("Scotts-Sierra") in December, 1993. We discovered several months ago that Scotts-Sierra may not have been qualified to do business in your state; therefore, we submitted a Qualification Application. However, pursuant to the attached letter, we were advised that we must pay penalties and fees totaling over \$8,900.00.

Because we purchased this corporation only last year, we have no knowledge of its past activities. We unfortunately appear to have no records which could prove or disprove the information your office apparently received from the Florida Department of Revenue indicating July 1, 1978 as the initial date of transacting business in Florida. However, we do not believe it is fair to require our company to pay penalties back to 1978 when we only recently acquired Scotts-Sierra.

I would appreciate discussing this matter with someone with the authority to work with us on it. I have been unable to reach your office by telephone, but I can be reached at 513/644-7606. We would be happy to negotiate with you toward a more reasonable fee.

Thank you for your assistance.

Very truly yours,



Christiane W. Schmenk
Associate General Counsel

CWS/bjc

cc: Jennifer Sindt, Document Examiner

enclosure

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SECRETARY OF STATE
DIVISION OF CORPORATIONS
56 MAY 10 AM 9:14

Doug,

Please review
the enclosed file.
They want to
"disown the matter..."

Thanks,
Jennifer

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95 MAY 10 AM 9:15

Copy of file
sent to
Doug for
review.

11/18/94

THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY. CERTIFICATION CAN ONLY
BE OBTAINED THROUGH THE OFFICE OF THE CALIFORNIA SECRETARY OF STATE.

Detail display of Corporate Data for California
For: SCOTT'S-SIERRA HORTICULTURAL PRODUCTS COMPANY

Thru Date: 05/25/95

Item Number: 0001
Name: SCOTT'S-SIERRA HORTICULTURAL PRODUCTS COMPANY
Address: 14111 SCOTTS LAWN ROAD
MARYSVILLE OH 43041
Number: 00515533
Date: 09/26/1966
Originated: CA
Type: ARTICLES OF INCORPORATION
Duration: PERPETUAL
Stmnt Filed: 08/29/1994 # 0360466
Status: ACTIVE

REGISTERED AGENT INFORMATION

C T CORPORATION SYSTEM
818 WEST SEVENTH ST. LOS ANGELES CA 90017

OFFICER/DIRECTOR INFORMATION

PRESIDENT: KEN HOLBROOK
14111. SCOTTS LAWN ROAD MARYSVILLE OH 43041

CORPORATE TAX INFORMATION

Corporation Tax Base: STOCK
FTB Suspension Status: ACTIVE

HISTORY INFORMATION

DATE	NUMBER	DESCRIPTION
05/08/1987	A0333259	CERTIFICATE OF AMENDMENT
08/21/1987	A0337477	CERTIFICATE OF AMENDMENT
05/24/1988	A0351322	CERTIFICATE OF AMENDMENT
10/25/1989	A0377534	MERGER
		Merged in: GRACE-SIERRA HORTICULTURAL PRODUCTS COMPANY
		Corporate #: 01645530
	A0377534	NAME CHANGE
		Changed from: SIERRA CHEMICAL COMPANY
12/16/1993	A0440630	MERGER
		Merged in: ZXY CORP.
		Corporate #: 01867814
	A0440630	NAME CHANGE
		Changed from: GRACE-SIERRA HORTICULTURAL PRODUCTS COMPANY

END OF DATA

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DIVISION OF CORPORATIONS
MAY 10 AM 9:15



FLORIDA DEPARTMENT OF STATE

Sandra B. Mortham
Secretary of State

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SECRETARY OF STATE
DIVISION OF CORPORATIONS
55 MAY 10 AM 9:15

27 February, 1996

Christiane W. Schmenk, Esquire
The Scotts Company
14111 Scottslawn Road
Marysville, OH 43041

Re: Outstanding Penalties and Fees Owed by Scotts-Sierra Horticultural Products Company

Dear Ms. Schmenk:

The purpose of this letter is to, once again, advise you of outstanding penalties and fees owed by Scotts-Sierra Horticultural Products Company to the Department of State. Attached please find a copy of past correspondence and sections 607.1501 and 607.1502, Florida Statutes, which further describe this matter.

As of the date above, the total amount of penalties and fees owed by this corporation is \$8,881.25. This figure represents the minimum statutory amount permitted under section 607.1502, Florida Statutes.

As a courtesy, I have enclosed with this letter a copy of the civil complaint that will be filed in this matter in the Leon County Circuit Court on March 12, 1996. You will note from the complaint that in addition to the statutory penalties described above, the Department will seek filing fees and costs for this action.

It is unfortunate that we have, thus far, not been able to resolve this matter through other means. If you have any questions, you may contact me at 904/414-5536.

Respectfully,

Marc W. Dunbar
Assistant General Counsel

MWD/sd

Enclosures

In the Circuit Court of the
Second Judicial Circuit, in
and for Leon County, Florida

DEPARTMENT OF STATE,
Division of Corporations

CASE NO.

Plaintiff,

v.

SCOTT'S-SIERRA HORTICULTURAL PRODUCTS
COMPANY, a California corporation,

Defendant.

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DIVISION OF CORPORATIONS
96 MAY 10 AM 9:15

COMPLAINT

Plaintiff, Department of State, Division of Corporations, ("Plaintiff"), by and through its undersigned counsel, sues the Defendant, Scotts-Sierra Horticultural Products Company, ("Defendant"), and states:

1. This is an action pursuant to sections 607.0130 and 607.1502, Florida Statutes, for the collection of fees and penalties due and owing the State of Florida.
2. Plaintiff is located in the City of Tallahassee, Leon County, Florida and, pursuant to Chapter 607, Florida Statutes, is the state agency duly authorized to regulate domestic and foreign corporations.
3. Defendant is a corporation, duly organized and existing under the laws of California State, engaged in the business of operation of selling horticulture products and related lawful activities. Its principal place of business is 1311 Executive Center Drive, Ste. 200, Tallahassee, FL 32301.

4. Section 607.1501, Florida Statutes, states that a foreign corporation may not transact business within the State of Florida until it obtains a certificate of authority from Plaintiff.

5. On July 1, 1978, Defendant began transacting business within the State of Florida. See Exhibit A, Defendant's Application by Foreign Corporation For Authorization to Transact Business in Florida.

6. Defendant continues to transact business within the State of Florida through the present day.

7. Defendant has not obtained a certificate of authority from Plaintiff to transact business within this state.

8. Defendant's failure to obtain a certificate of authority and Defendant's continued transaction of business in this state violates section 607.1501, Florida Statutes.

9. Since it began transacting business in this state, Defendant has been required by section 607.1622, Florida Statutes to file annual reports with Plaintiff and pay to Plaintiff the applicable annual report fees.

10. Since it began transacting business in Florida in 1978, Defendant has not filed the requisite annual reports nor has it paid the applicable annual report fees.

11. Pursuant to sections 607.0122, 607.1622 and 607.1502, Florida Statutes, Defendant is liable to Plaintiff for unpaid annual report fees and penalties for the years 1978 through 1996 in the total amount of \$20,281.25.

WHEREFORE, pursuant to section 607.1502, Florida Statutes, Plaintiff requests judgment against Defendant for penalties and fees in the amount of \$20,281.25 together with the costs of this action, and such other relief as the court may deem just and proper.

Respectfully submitted this 12th day of March, 1996.

MARC W. DUNBAR, Esq.
Assistant General Counsel
Department of State
LL10 - The Capitol
Tallahassee, FL 32399-0250
Fla. Bar No. 0008397
(904) 414-5536

ATTORNEY FOR PLAINTIFF

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAY 10 AM 9:15

03/08/96

16:11

513 644 7117

SCOTTS/HYP CREDIT

001/002



THE SCOTTS COMPANY

Treasury
14111 Scottslawn Road
Marysville, Ohio 43041

RECEIVED

MAR 8 1996

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY

TELEPHONE NUMBER 513/644-0011
FACSIMILE NUMBER 513/644/7117

FACSIMILE TRANSMISSION

DATE: 8 MARCH 1996

TO: MARC DUNBAR

COMPANY: FLORIDA SECRETARY OF STATE - GEN COUNSEL'S OFF.

FACSIMILE NUMBER: (904) 922-5763

FROM: EP BOWER

2 PAGES (including transmission form)

Message if any:

MARC -

PLEASE LET ME KNOW YOUR THOUGHTS
ON THIS MONDAY A.M., IF POSSIBLE.

THANKS

Ed

FAXDOCPM

FILED
SECRETARY OF STATE
DIVISION OF COMMUNICATIONS
96 MAR 10 AM 9:15

The Scotts Company**Scotts**

March 11, 1986

Mr. Marc W. Dunbar, Esq.
Assistant General Counsel, Office of the General Counsel
Florida Department of State
Room LL-10, The Capitol
Tallahassee, FL 32399-0250

Re: Scotts-Sierra Horticultural Products Company

Dear Marc:

On Monday, I will overnight you a notarized affidavit of Lisle J. Smith, formerly Chief Financial Officer of Grace Sierra Horticultural Products Company and currently Vice President of The Scotts Company. I will also enclose with the affidavit our check for fees and penalties for the years 1989-1995.

I do have two questions that I hope you could resolve in the hope that the Secretary of State might reduce this payment. First of all, since the company did not do business in Florida until October 1989, is it possible that we would not owe anything for the 1989 year. Secondly, since we filed timely for the year 1995, a payment that the state ultimately rejected, could we abate the penalty for 1995?

I do not want to delay the process while we sought answers to these questions. However, I did not want to miss an opportunity to reduce the payment by approximately \$1,100 (two penalties and one annual fee). I am sending this request by facsimile in the hope that you could review it Monday morning and let me know (telephone (513) 644-7362) if the Secretary could agree to a reduction of the fee. If I don't hear from you Monday morning, I will issue the check to the Florida Department of State for \$4,596.25 and you can advise me if a portion is refundable.

Thank you for your help and patience in dealing with this matter.

Sincerely,

Ed Bower

Edward T. Bower

cc: Chris Schmenk

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAR 10 AM 9:15

The Scotts Company

Scotts

March 11, 1996

VIA OVERNIGHT MAIL

Mr. Marc W. Dunbar, Esq.
Assistant General Counsel, Office of the General Counsel
Florida Department of State
Room LL-10, The Capitol
Tallahassee, FL 32399-0250

RECEIVED
MAR 12 1996

Office of General Counsel
Department of State

Re: Scotts-Sierra Horticultural Products Company

Dear Marc:

I have enclosed, as promised, the notarized affidavit of Lisle J. Smith, formerly Chief Financial Officer of Grace Sierra Horticultural Products Company (GSHPC) and currently Vice President of The Scotts Company. I have also enclosed our check payable to the Florida Department of State for \$ 4,596.25 constituting fees and penalties for the years 1989-1995.

Per our conversation this morning, I now understand that GSHPC should have registered in 1989 even though they did not begin operations until October of that year and even though they did not owe an annual report fee until 1990. I also understand that our payment of the \$ 70 annual report fee in 1995 is a separate matter from the registration fee. Since we did not timely pay the registration fee for 1995, we owe a penalty on that amount.

I wonder if you could grant me one more favor before closing this matter. If you would send me a list of the fees that we have now paid and the associated penalties, I will be able to ensure that we have documentation for the payment and that we treat it correctly for taxation purposes. I would also like to make certain that we have paid all appropriate filing fees for the years in question (e.g., registration fees as well as annual report fees).

Thank you again for your help and patience in resolving this matter.

Sincerely,

Ed Bower

Edward T. Bower
Director, Corporate Taxes

cc: Chris Schmenk
Lisle Smith

SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAY 10 AM 9:15

AFFIDAVIT

I, Lisle Joseph Smith, being duly sworn, hereby state as follows:

(1) I was employed by Grace Sierra Horticultural Products Company from 1987 to its acquisition by the Scotts Company on December 16, 1993. From 1991 to the date of acquisition I served as Chief Financial Officer of the company. Since December 16, 1993, I have been a Vice President of The Scotts Company.

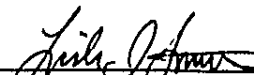
(2) I am familiar with the Florida activities of Grace Sierra Horticultural Products Company (hereinafter "GSHPC") and its successor, Scotts-Sierra Horticultural Products Company (hereinafter "SSHPC") for all relevant time periods until the present date.

(3) GSHPC opened a warehouse in Fernandina Beach, Florida in October, 1989 and that facility continues in operation through the present.

(4) The Fernandina Beach warehouse is the only facility operated by either GSHPC or SSHPC in the state of Florida.

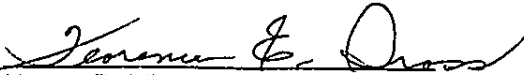
(5) From time to time, GSHPC and SSHPC have employed salespeople in the state of Florida, but those salespeople merely engage in solicitation activities as defined in Section 607.1501(2)(f) of the Florida statutes. The home offices of GSHPC and SSHPC accept or reject these orders outside of Florida.

WHEREUPON I have set my hand and seal this 11th day of March, 1996.


Lisle Joseph Smith, Affiant

State of Ohio)
)
County of Union)

Comes now, Lisle Joseph Smith, personally known by me, a notary public in and for said county and state and states that the foregoing is true to the best of his knowledge and belief.


Notary Public

My commission expires: April 10, 1996

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAY 10 AM 9:15



Department of State *Memorandum Office of the General Counsel*

TO: File

FROM: Marc W. Dunbar, Assistant General Counsel

DATE: March 12, 1996

RE: Scotts-Sierra Horticultural Products Company

Based upon the affidavit received from this corporation, it is my recommendation that this file be closed. This corporation filed an incorrect application and never actually transacted business in this state within the parameters of Chapter 607, Florida Statutes, until 1989. As such, the fees and penalties should be adjusted to \$4,596.25. This corporation has paid this amount, and as a result, it is my recommendation that this file be closed.

MWD/mwd

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SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAY 10 AM 9:15



FLORIDA DEPARTMENT OF STATE

Sandra B. Mortham
Secretary of State

March 13, 1996

EDWARD T. BOWER
THE SCOTTS COMPANY
14111 SCOTTS LAWN ROAD
MARYSVILLE, OH 43041

SUBJECT: SCOTTS-SIERRA HORTICULTURAL PRODUCTS COMPANY
Ref. Number: W94000015771

The general counsel of this office has recommended that this corporation be filed; however, before the application can be processed, a current certificate of existence (good standing) must be submitted. The certificate submitted previously is almost two years old and no longer acceptable.

If you have any questions concerning the filing of your document, please call (904) 487-6095.

Jennifer Sindt
Document Examiner

Letter Number: 096A00011122

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CORPORATIONS
96 MAY 10 AM 9:15

The Scotts Company

Scotts

May 7, 1996

Ms. Jennifer Sindt
Document Examiner
Florida Department of State
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

Re: Scotts-Sierra Horticultural Products Company
Letter Number: 096A00011122

Dear Jennifer:

I have enclosed a copy of a more recent certificate of good standing for Scotts-Sierra Horticultural Products Company from the California Secretary of State's office. You had requested this document in your letter of March 13, 1996 after Marc Dunbar and I had ostensibly resolved this matter. I hope this at last will fully reinstate the company to the good graces of the state of Florida.

Sincerely,

Edward T. Bower

Edward T. Bower
Director, Corporate Taxes

cc: Chris Schmenk

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DIVISION OF CORPORATIONS
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11-11-73

**APPLICATION BY FOREIGN CORPORATION FOR
AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA**

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:

1. Scotts-Sierra Horticultural Products Company
(Name of corporation; the word "INCORPORATED," "COMPANY," or "CORPORATION" or words or abbreviations of like import in language, as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name at present.)
2. California
(State or country under the law of which it is incorporated)
3. July 28, 1971
(Date of Incorporation)
4. Perpetual
(Duration)
5. 94-1634227
(Federal Employer Identification number, if applicable)
6. Not known at this time.
(Date first transacted business in Florida. See sections 607.1501, 607.1502, and 817.155, F.S.)
7. 14111 Scottslawn Road, Marysville, Ohio 43041
(Current mailing address)
8. Sale of horticulture products (wholesale & retail) and related lawful activities
(Brief description of the nature of the business in which it is engaged in the state of Florida)
9. Names and addresses of officers and or directors:
 - A. **Directors:**
 - Chairman: Tadd C. Seitz
Address: 14111 Scottslawn Road, Marysville, Ohio 43041
 - Vice Chairman: Theodore W. Host
Address: 14111 Scottslawn Road, Marysville, Ohio 43041
 - Director: Craig D. Walley
Address: 14111 Scottslawn Road, Marysville, Ohio 43041
 - Director: Paul D. Yeager
Address: 14111 Scottslawn Road, Marysville, Ohio 43041

SECRETARY OF STATE
DIVISION OF CORPORATIONS
96 MAY 10 AM 9:15

President: Ken Holbrook
Address: 14111 Scottslawn Road, Marysville, Ohio 43041

Vice President: Linlo J. Smith
Address: 14111 Scottslawn Road, Marysville, Ohio 43041

Secretary: Craig D. Walley
Address: 14111 Scottslawn Road, Marysville, Ohio 43041

Vice President: John Neal
Treasurer 14111 Scottslawn Road, Marysville, Ohio 43041
Address:

(If needed, you may attach an addendum to the application listing additional officers and/or directors.)

10. Name and Street address of Florida registered agent:

Name: CT CORPORATION SYSTEM
Office Address: c/o C T Corporation System, 1200 South Pine Island Road
Plantation, Florida 33324
Zip Code

11. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

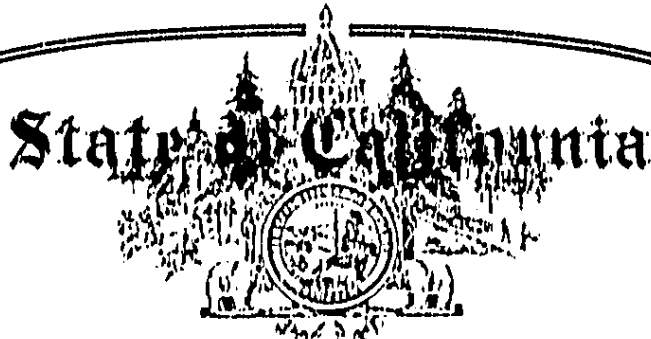
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DIVISION OF CORPORATIONS
96 MAY 10 AM

CT CORPORATION SYSTEM
Registered agent's signature: Connie Bryan
CONNIE BRYAN
SPECIAL ASSISTANT SECRETARY
(Type Name and Title of Officer)

12. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

13. Craig D. Walley
(Signature of Chairman, Vice Chairman, or any officer listed in number 9 of the application)

14. Craig D. Walley, Secretary
(Name and capacity of person signing application)



SECRETARY OF STATE

CERTIFICATE OF STATUS
DOMESTIC CORPORATION

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
95 MAY 10 AM 9:15

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That on the 26th day of September, 19 66,

SCOTT'S-SIERRA HORTICULTURAL PRODUCTS COMPANY

became incorporated under the laws of the State of California by filing its Articles of Incorporation in this office; and

That no record exists in this office of a certificate of dissolution of said corporation nor of a court order declaring dissolution thereof, nor of a merger or consolidation which terminated its existence; and

That said corporation's corporate powers, rights and privileges are not suspended on the records of this office; and

That according to the records of this office, the said corporation is authorized to exercise all its corporate powers, rights and privileges and is in good legal standing in the State of California; and

That no information is available in this office on the financial condition, business activity or practices of this corporation.

IN WITNESS WHEREOF, I execute this
certificate and affix the Great Seal of
the State of California this day of

April 29, 1996



Bill Jones

Secretary of State