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BACKER & BACKER, P.C.

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HERBERT J. BACKER  
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00789-01117-00471

June 19, 2000

MJH

VIA OVERNIGHT DELIVERY

850-487-6051

FLORIDA DEPARTMENT OF STATE

Registration Section  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, FL 32399

W-14277  
600003297926--6  
-05/20/00--01087--004  
\*\*\*\*160.00 \*\*\*\*160.00

Re: Articles of Organization of Fenneman & Brown Florida, LLC

To Whom it May Concern:

I am enclosing an original and one copy of the Articles of Organization of Fenneman & Brown Florida, LLC. Please file the Articles and return the copy to me, certified, along with a Certificate of Status. I am enclosing a check in the amount of \$160.00 for the fees as follows: \$100 - filing fee; \$25.00 - registered agent; \$30.00 - certified copy; \$5.00 - Certificate. Please return the instruments to me in the enclosed, prepaid overnight envelope.

If you have any questions, please call me at 317-571-0500.

Very truly yours,

BACKER & BACKER, P.C.

*Tracy A Smikle*

Tracy A. Smikle  
Legal Assistant

*Tracy Smikle* GAVE  
AUTHORIZATION BY PHONE TO  
CORRECT *Mailing Address*  
DATE *6/27/00*  
DOC. EXAM *MJH*

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
00 JUN 20 AM 11:42

Enclosure

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SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
00 JUN 20 AM 11:42

**ARTICLES OF ORGANIZATION**  
**OF**  
**FENNEMAN & BROWN FLORIDA, LLC**

The undersigned, a natural person of at least eighteen (18) years of age, acting as organizer, hereby forms a limited liability company (hereinafter referred to as the "Company") pursuant to the Florida Limited Liability Company Act, Fla. Rev. Civ. Stat. Ann. Sec. 608.407, as amended, (hereinafter the "Act") and adopts the following Articles of Organization.

**ARTICLE I**  
**Name**

The name of the Company is Fenneman & Brown Florida, LLC.

**ARTICLE II**  
**Purposes**

The purposes for which the Company is formed are to own and develop commercial real estate and to transact any and all lawful business for which limited liability companies may be organized under the Act.

**ARTICLE III**  
**Duration**

**Section 3.01. Period of Duration.** The period during which the Company shall continue is perpetual unless dissolution occurs in accordance with the Act, these Articles of Organization, or the Operating Agreement as adopted by the Members.

**Section 3.02. Right to Continue Business.** Upon the death, retirement, resignation, withdrawal, removal, expulsion, bankruptcy, or dissolution of a Member or the occurrence of any other event which may terminate the continued membership of a Member ("Dissolution Event") in the Company, the business of the Company may be continued so long as there is at least one (1) remaining Member and the remaining member consents to the continuation of business within 90 days of the Dissolution Event.

**ARTICLE IV**  
**Principal Place of Business and Registered Agent**

**Section 4.01. Registered Agent.** The name and address of the Company's Registered Agent for service of process is Martin Wallerstein, 5689 Estero Blvd., Fort Myers Beach, FL 33931.

**Section 4.02. Principal Place of Business.** The address of the principal place of the business of the Company is Unit 1402, 7390 Estero Boulevard, Fort Myers Beach, FL 33931. The mailing address shall be the same.

**ARTICLE V**  
**Members**

**Section 5.01. Number of Members.** There shall be at least two (2) Members of this Company upon formation. Additional Members may be admitted upon the unanimous written consent of all Members.

**Section 5.02. Membership Certificates.** Membership Certificates may be issued by the Company originally, and such Certificates as are reacquired by the Company from time to time and not canceled may be sold or otherwise disposed of, for such consideration in money, real property, personal property, tangible or intangible, or labor or services actually performed for the Company, as may be fixed by the Members of the Company.

**Section 5.03. Voting Rights.** Each Member of the Company represented in person or by proxy at any annual or special meeting of Members shall be entitled to vote his or her respective percentage interest in the Company upon each question that comes before the meeting.

**Section 5.04. Operating Agreement.** To the extent not inconsistent with the Act or the terms of these Articles, the Operating Agreement of the Company shall govern the rights and duties of the Members and the relationship between Members.

**ARTICLE VI**  
**Organizer**

The name and post office address of the Organizer of the Company is:

Name  
Charles W. Brown

Address  
5864 South East Street  
Indianapolis, IN 46227

**ARTICLE VII**  
**Provisions for Regulation of Business and**  
**Conduct of Affairs of Company**

**Section 7.01. Meetings of Members.** Meetings of the Members of the Company shall be held at such place, either within or without the State of Florida, as may be authorized by the Operating Agreement and specified in the respective notices or waivers of notice of any such meetings.

**Section 7.02. Action Without Meeting.** Any action required or permitted to be taken at any meeting of the Members, may be taken without a meeting, if prior to such action a written consent thereto is signed by all Members, and such written consent is filed with the minutes of the proceedings of the Members. Such consent shall have the same effect as a unanimous vote of all Members.

**Section 7.03. Operating Agreement.** The Members shall have the power to make, alter, amend or repeal the Operating Agreement of the Company by affirmative vote of the Members who own a majority of the percentage interest of the Company at the time.

**Section 7.04. Interest of Members.** No contract or other transaction between the Company and one or more of its Members or any other corporation, firm, association or entity in which one or more of its Members is an officer or is financially interested, shall be either void or voidable because of such relationship or interest or because such Members are present at the meeting which authorizes, approves or ratifies such contract or other transactions or because his or her votes are counted for such purposes, if:

- A. The fact of such relationship or interest is disclosed or known to the Company's Members entitled to vote, and they authorize, approve or ratify such contract or transaction by vote or written consent; or
- B. The contract or transaction is fair and reasonable to the Company.

Interested Members may be counted in determining the presence of a quorum of a meeting which authorizes, approves or ratifies such contract or transaction. This Section shall not be construed to invalidate any contract or other transaction which otherwise would be valid under the common or statutory law applicable thereto.

**Section 7.05. Non-liability of Members.** Private property of Members of the Company shall not be subject to the payment of Company debts.

**Section 7.06. Indemnification of Members.**

A. To the extent not inconsistent with Florida law as in effect from time to time, every person (and the heirs and personal representatives of such person), who is or was a Member, employee, or agent of the Company or is or was serving at the request of the Company, shall be indemnified by the Company against all liability and reasonable expense that may be incurred by him in connection with or resulting from any claim, action, suit or proceeding: (1) if such Member or employee is wholly successful with respect thereto, or (2) if not wholly successful, then if such Member or employee is determined, as provided in subparagraph (E), to have not willfully and recklessly breached the obligation and duty to act in good faith, in what he reasonably believes to be the best interest of the Company, and in addition, with respect to any criminal action or proceeding is determined to have had no reasonable cause to believe that his conduct was unlawful. The termination of any claim, action, suit or proceeding, by judgment, settlement (whether with or without court approval), or conviction or upon a plea of guilty or *nolo contendere*, or its equivalent, shall not create a presumption that a Member or employee did not meet the standards of conduct set forth in this Section.

B. The terms "claim", "action", "suit" or "proceeding" shall include every claim, action, suit or proceeding and all appeals thereof (whether brought by or in the right of this Company or any other company or otherwise), civil, criminal, administrative or investigative, or threat thereof, in which a Member or employee of the Company (or his heirs and personal representatives) may become involved, as a party or otherwise: (1) by reason of his being or having been a Member or employee of this Company or of any other company which he has served as such at the request of the Company, or (2) by reason of his acting or having acted in any capacity in a partnership, association, trust, or other organization or entity where he served as such at the request of this Company, or (3) by reason of any action taken or not taken by him in any such capacity, whether or not he continues in such capacity at the time such liability or expense shall have been incurred.

C. The terms "liability" and "expense" shall include, but shall not be limited to, counsel fees and disbursements and amounts of judgments, fines or penalties against, and amounts paid in settlement by or on behalf of, a Member or employee.

D. The term "wholly successful" shall mean: (1) termination of any action, suit or proceeding against the person in question without finding of liability or guilt against him, (2) approval by a court, with knowledge of the indemnity herein provided, of a settlement of any action, suit or proceeding, or (3) expiration of a reasonable period of time after the mailing of any claim or threat of an action, suit or proceeding without the institution of the same, without any payments or promise to induce a settlement.

E. Every person claiming indemnification hereunder (other than one who has been wholly successful with respect to any claim, action, suit or proceeding) shall be

entitled to indemnification: (1) if special independent legal counsel, which may be regular counsel of the Company or other disinterested person or persons, in either case selected by the Members who own a majority of the Company (such counsel or person or persons being hereafter called the "referee"), shall deliver to the Company a written finding that such Member or employee has met the standards of conduct set forth in the preceding subparagraph (A), and (2) the person claiming indemnification shall, if requested, appear before the referee, answer questions which the referee deems relevant and shall be given ample opportunity to present to the referee evidence upon which he relies for indemnification. The Company shall, at the request of the referee, make available facts, opinions or other evidence in any way relevant to the referee's finding which are within the possession or control of the Company.

F. The rights of indemnification provided in this Section 7.06, shall be in addition to any rights to which any such Member or employee may otherwise be entitled. Irrespective of the provisions of this Section 7.06, the Members by a majority vote may, at any time and from time to time, approve indemnification of Members, employees or other persons to the full extent permitted by the provisions of Florida law at the time in effect, whether on account of past or future transactions.

G. Expenses incurred with respect to any claim, action, suit or proceeding may be advanced by the Company prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless he is entitled to indemnification.

**Section 7.07. Amendment or Repeal.** This Company shall be deemed, for all purposes, to have reserved the right to amend, alter, change or repeal any provision contained in these Articles of Organization by an affirmative vote of the Members owning a majority of the outstanding interests in the Company to the extent and in the manner now or hereafter permitted or prescribed by the Act, and all rights herein conferred upon Members are granted subject to such reservation.


**Section 7.08. Taxation.** It is the intent of the Organizer and the Members that the Company be taxed as a partnership and not an association for federal income tax purposes.

## **ARTICLE VIII** **Management**

The Company shall be initially managed by the following Managing Member, Craig E. Fenneman.



Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in these Articles of Organization, 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 relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent as provided for in Chapter 608, F.S..

A handwritten signature in black ink, appearing to read "Martin Wallerstein", is written over a horizontal line.

**Martin Wallerstein, Registered Agent**  
5689 Estero Blvd.  
Fort Myers Beach, FL 33931