

280677

ARTICLES OF MERGER
Merger Sheet

MERGING:

BEST BRANDS, INC., a Florida corporation, 280677

INTO

HERO BAKERY PRODUCTS, INC., a Delaware corporation not qualified in
Florida.

File date: June 3, 1997, effective June 6, 1997

Corporate Specialist: Joy Moon-French

Document Number Only

280677

C T CORPORATION SYSTEM			
Requestor's Name			
660 East Jefferson Street			
Address			
Tallahassee, Florida 32301			
City	State	Zip	Phone
CORPORATION(S) NAME			

800002200468--5
-06/03/97--01110--009
*****70.00 *****70.00

Best Brands, Inc
merged into:
Hero Bakery Products, Inc

FILED
97 JUN -3 PM 3:53
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

- | | | |
|--|---|---|
| <input type="checkbox"/> Profit | <input type="checkbox"/> Amendment | <input checked="" type="checkbox"/> Merge |
| <input type="checkbox"/> NonProfit | | |
| <input type="checkbox"/> Limited Liability Company | | |
| <input type="checkbox"/> Foreign | <input type="checkbox"/> Dissolution/Withdrawal | <input type="checkbox"/> Mark |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Annual Report | <input type="checkbox"/> Other |
| <input type="checkbox"/> Reinstatement | <input type="checkbox"/> Reservation | <input type="checkbox"/> Change of R.A. |
| <input type="checkbox"/> Limited Liability Partnership | | <input type="checkbox"/> Fictitious Name |
| <input type="checkbox"/> Certified Copy | <input type="checkbox"/> Photo Copies | <input type="checkbox"/> CUS |
| <input type="checkbox"/> Call When Ready | <input type="checkbox"/> Call if Problem | <input type="checkbox"/> After 4:30 |
| <input checked="" type="checkbox"/> Walk In | <input type="checkbox"/> Will Wait | <input checked="" type="checkbox"/> Pick Up |
| <input type="checkbox"/> Mail Out | | |

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

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6/3/97
EFFECTIVE DATE
6-6-97

6/4
Tony
Merger

RECEIVED
97 JUN -3 PM 2:45
DIVISION OF CORPORATION

ARTICLES OF MERGER

OF

BEST BRANDS, INC.

into

HERO BAKERY PRODUCTS, INC.

FILED

97 JUN -3 PM 3:53

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

EFFECTIVE DATE
6-6-97

The undersigned corporations, pursuant to Sections 607.1105 and 607.1107 of the Florida Business Corporation Act (the "**FBCA**") hereby execute the following Articles of Merger:

FIRST: The names of the corporations proposing to merge and the names of the states or countries under the laws of which such corporations are organized are as follows:

Name of corporation

State of Incorporation

Best Brands, Inc.

Florida

Hero Bakery Products, Inc.

Delaware

SECOND: The laws of the state or country under which such foreign corporation is organized permit such merger and such foreign corporation is complying with those laws in effecting the merger.

THIRD: The foreign corporation, which is the surviving corporation of the merger, complies with Section 607.1105; and the domestic corporation complies with the applicable provisions of Sections 607.1101 through 607.1104.

FOURTH: The plan of merger is as set forth in the Agreement and Plan of Merger set forth on *Exhibit A* hereto.

FIFTH: The effective date and time of the merger shall be 9:01 A.M. Eastern Daylight Savings Time, Friday, June 6, 1997.

SIXTH: The plan of merger was adopted by the shareholder of Best Brands, Inc., on the 2nd day of June, 1997 and was adopted by the stockholder of Hero Bakery Products, Inc. on the 2nd day of June 1997.

Signed this second day of June, 1997.

HERO BAKERY PRODUCTS, INC.
(Name of surviving corporation)

By: Dr. Wilfried E. Witthuhn
Name: Dr. Wilfried E. Witthuhn
Title: Vice President

BEST BRANDS, INC.
(Name of merging corporation)

By: Dr. Wilfried E. Witthuhn
Name: Dr. Wilfried E. Witthuhn
Title: Secretary

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "*Agreement*") is dated as of June 2, 1997 by and between Hero Bakery Products, Inc. a Delaware corporation ("*Hero*" or the "*Surviving Corporation*"), and Best Brands, Inc., a Florida corporation ("*Merging Corporation*"). Hero and Merging Corporation are sometimes referred to herein as the "Constituent Corporations."

RECITALS

WHEREAS, Hero has an authorized capital stock of 100 shares, all of which are designated as Common Stock, \$0.01 par value per share ("*Hero Common Stock*") and all of which are issued and outstanding; and

WHEREAS, Merging Corporation has an authorized capital stock of 1,000 shares, all of which are designated as Common Stock, no par value per share and of which 5 shares are issued and outstanding ("*Merging Corporation Common Stock*"); and

WHEREAS, the Board of Directors of Hero and the Board of Directors of Merging Corporation deem it advisable and in the best interests of the constituent corporations and their respective stockholders and shareholders that Merging Corporation merge with and into Hero under and pursuant to the provisions of the Florida Business Corporation Act (the "*FBCA*") and the General Corporation Law of the State of Delaware (the "*DGCL*"); and

WHEREAS, the Board of Directors and stockholders of Hero and the Board of Directors and shareholder of Merging Corporation have approved this Agreement pursuant to Section 251 of the DGCL and Section 607.1107 of the FBCA.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth herein, Hero and Merging Corporation hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

ARTICLE I

MERGER

1.1. **Merger.** In accordance with the provisions of this Agreement, the DGCL and the FBCA, Merging Corporation shall be merged with and into Hero (the "*Merger*"), the separate existence of Merging Corporation shall cease and Hero shall be, and is herein sometimes referred to as, the Surviving Corporation in the Merger.

1.2. **Filing and Effectiveness.** The effective date and time of the Merger shall be 9:01 A.M. Eastern Daylight Savings Time on June 6, 1997 (the "*Effective Time*").

1.3. **Effect of the Merger.** At the Effective Time (a) the separate existence of Merging Corporation shall cease and Hero, as the Surviving Corporation, shall possess all the rights, privileges, powers, franchises and authority, both public and private, and be subject to all the restrictions, disabilities and duties of the Constituent Corporations and (b) the Surviving Corporation shall be vested with all assets and property, real, personal and mixed, and every interest therein, wherever located, belonging to each of the Constituent Corporations and shall be liable for all the obligations and liabilities of each of the Constituent Corporations, all as more fully provided under the applicable provisions of the DGCL and the FBCA.

ARTICLE II

CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1. **Certificate of Incorporation.** The Certificate of Incorporation of Hero shall, from and after the Effective Time, be the Certificate of Incorporation of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

2.2. **Bylaws.** The Bylaws of Hero as in effect immediately prior to the Effective Time shall continue in full force and effect from and after the Effective Time as the Bylaws of the Surviving Corporation until duly amended in accordance with the provisions thereof and applicable law.

2.3. **Directors and Officers.** The directors and officers of Hero immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation until their successors shall have been duly elected and qualified.

ARTICLE III

CONVERSION OF STOCK AND OPTIONS

3.1. **Hero Common Stock.** At the Effective Time, each share of Hero Common Stock issued and outstanding immediately prior thereto shall continue to be outstanding shares, and each stock certificate evidencing ownership of such shares shall evidence ownership of the same number of shares of the Surviving Corporation.

3.2. **Merging Corporation Common Stock.** At the Effective Time, each share of Merging Corporation Common Stock issued and outstanding immediately prior thereto shall, by virtue of the Merger and without any action by the Constituent Corporations, the holder of such share or any other person, be canceled without payment of any consideration therefor and cease to exist and be outstanding.

ARTICLE IV

MISCELLANEOUS

4.1. **Further Assurance.** From time to time, as and when required by the Surviving Corporation, or by its successors or assigns, there shall be executed and delivered on behalf of Merging Corporation such deeds and other instruments, and there shall be taken or caused to be taken by it such further and other actions as shall be appropriate or necessary in order to vest or perfect in or confirm of record or otherwise by the Surviving Corporation the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Merging Corporation and otherwise to carry out the purposes of this Agreement, and the officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of Merging Corporation or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

4.2. **Abandonment.** At any time before the Effective Time, this Agreement may be terminated and the Merger may be abandoned for any reason whatsoever by the Board of Directors of Hero.

4.3. **Counterparts.** In order to facilitate the filing and recording of this Agreement, the same may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

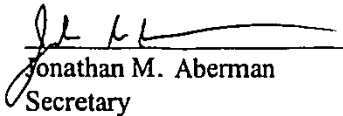
4.4. **Service of Process on Merging Corporation.** From and after the Effective Time Hero agrees that it may be served with process in the State of Florida in any proceeding for enforcement of any obligation of Merging Corporation as well as for the enforcement of any obligation of Hero arising from the Merger and Hero irrevocably appoints the Secretary of State of the State of Florida as its agent to accept service of process in any such proceeding.

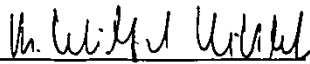
[Signature page follows]

IN WITNESS WHEREOF, this Agreement is hereby executed on behalf of each of the
Constituent Corporations.

Attest:

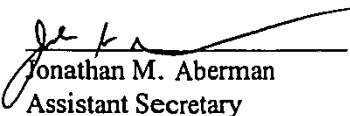
HERO BAKERY PRODUCTS, INC.,
a Delaware corporation

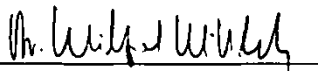

Jonathan M. Aberman
Secretary


By: Dr. Wilfried E. Witthuhn
Its: Vice President

Attest:

BEST BRANDS, INC.,
a Florida corporation


Jonathan M. Aberman
Assistant Secretary


By: Dr. Wilfried E. Witthuhn
Its: Secretary