

480778



ACCOUNT NO. : 072100000032

REFERENCE : 883642 5055134

AUTHORIZATION : *Patricia Pigute*

COST LIMIT : \$ 96.25

ORDER DATE : July 8, 1998

ORDER TIME : 9:24 AM

ORDER NO. : 883642-005

CUSTOMER NO: 5055134

CUSTOMER: Mr. Martin Engels
Martin Engels, P.a.
100 Southeast 2nd Street
Nationsbank Tower At Internati
Miami, FL 33131

700002584097--9

DOMESTIC AMENDMENT FILING

NAME: BENTLEY'S LUGGAGE CORP.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
XX CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Christopher Smith

EXAMINER'S INITIALS:

FILED
98 JUL -9 PM 2:54
SECRETARY OF STATE
DIVISION OF CORPORATION
TALLAHASSEE, FLORIDA
98 JUL -9 AM 10:35
RECEIVED

7/9

*Amended
& Restated
Art.
CC + CUS.*

FILED

98 JUL -9 PM 2:54

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

SECOND AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
BENTLEY'S LUGGAGE CORP.

Pursuant to the provisions of Section 607.194 of the Florida Statutes, Bentley's Luggage Corp., f/k/a Florida Luggage Corp., originally incorporated in the State of Florida on July 17, 1975, hereby adopts the following Second Amended and Restated Articles of Incorporation.

ARTICLE I

The name of the corporation shall be:

Bentley's Luggage Corp.

Article II is hereby amended to read as follows:

ARTICLE II

The principal place of business and mailing address of this corporation shall be
3353 N.W. 74th Avenue, Miami, Florida 33122.

Article III is hereby amended to read as follows:

ARTICLE III

Part A. Authorized Shares

The total number of shares of capital stock which the Corporation has authority to issue is 25,010,000 shares, consisting of:

- (1) 5,000,000 shares of Common Stock, par value \$.001 per share ("Common Stock");
- (2) 10,000 shares of Class B Common Stock, par value \$.001 per share ("Class B Common");

(3) 10,000,000 shares of Class L Common Stock, par value \$.01 per share ("Class L Common"); and

(4) 10,000,000 shares of Class A Common Stock, par value \$.01 per share ("Class A Common").

The Common Stock, Class B Common, Class L Common and Class A Common, and any other common stock issued hereafter are referred to collectively as the "Common Shares." The Common Shares shall have the rights, preferences and limitations set forth below. Capitalized terms used but not otherwise defined in Part A or Part B of this Article IV are defined in Part C.

Part B. Common Shares

Except as otherwise provided in this Part B or as otherwise required by applicable law, all Common Shares shall be identical in all respects and shall entitle the holders thereof to the same rights and privileges, subject to the same qualifications, limitations and restrictions.

Section 1. Voting Rights. Except as otherwise provided in this Part B or as otherwise required by applicable law, all holders of Common Stock and Class A Common shall be entitled to one vote per share on all matters to be voted on by the Corporation's stockholders and the holders of Common Stock and Class A Common shall vote together as a single class. Except as otherwise required by applicable law, all holders of Class B Common and Class L Common shall have no right to vote on any matters to be voted on by the Corporation's stockholders.

Section 2. Distributions. At the time of each Distribution, such Distribution shall be made to the holders of the Common Shares in the following priority:

(i) The holders of Class L Common shall be entitled to receive all or a portion of such Distribution (ratably among such holders based upon the number of shares of Class L Common held by each such holder as of the time of such Distribution) equal to the aggregate Unpaid

Yield on the outstanding shares of Class L Common as of the time of such Distribution, and no Distribution or any portion thereof shall be made under paragraphs 2(ii) or (iii) below until the entire amount of the Unpaid Yield on the outstanding shares of Class L Common as of the time of such Distribution has been paid in full. The Distributions made pursuant to this paragraph 2(i) to holders of Class L Common shall constitute a payment of Yield on Class L Common.

(ii) After the required amount of a Distribution has been made in full pursuant to paragraph 2(i) above, the holders of Class L Common shall be entitled to receive all or a portion of such Distribution (ratably among such holders based upon the number of shares of Class L Common held by each such holder as of the time of such Distribution) equal to the aggregate Unreturned Original Cost of the outstanding shares of Class L Common as of the time of such Distribution, and no Distribution or any portion thereof shall be made under paragraph 2(iii) below until the entire amount of the Unreturned Original Cost of the outstanding shares of Class L Common as of the time of such Distribution has been paid in full. The Distributions made pursuant to this paragraph 2(ii) to holders of Class L Common shall constitute a return of Original Cost of Class L Common.

(iii) After the required amount of a Distribution has been made pursuant to paragraphs 2(i) and (ii) above, holders of Common Shares as a group, shall be entitled to receive the remaining portion of such Distribution (ratably among such holders based upon the number of Common Shares held by each such holder as of the time of such Distribution).

Section 3. Stock Splits and Stock Dividends. The Corporation shall not in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by stock split, stock dividend or otherwise) the outstanding Common Shares of one class unless the outstanding Common

Shares of the other class shall be proportionately subdivided or combined. All such subdivisions and combinations shall be payable only in Common Stock to the holders of Common Stock, Class B Common to the holders of Class B Common, Class L Common to the holders of Class L Common and Class A Common to the holders of Class A Common. In no event shall a stock split or stock dividend constitute a payment of Yield or a return of Original Cost.

Section 4. Conversion of Class L Common Upon Initial Public Offering.

(i) Upon the consummation of the Corporation's initial Public Offering, each outstanding share of Class L Common shall, without any action by the holder thereof, automatically convert into a number of shares of Class A Common equal to the sum of (i) one and (ii) the result of (x) the Unreturned Cost plus Unpaid Yield of such share of Class L Common divided by (y) the price per share of the Class A Common in the Public Offering (in each case before giving effect to any stock split declared in connection with such Public Offering).

(ii) As soon as possible after a conversion has been effected, the Corporation shall deliver to the converting holder a certificate or certificates representing the number of shares of Class A Common issuable by reason of such conversion in such name or names and such denomination or denominations as the converting holder has specified.

(iii) The issuance of certificates for shares of Class A Common upon conversion of Class L Common shall be made without charge to the holders of such Class L Common for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Class A Common. Upon conversion of each share of Class L Common, the Corporation shall take all such actions as are necessary in order to ensure that the Class A Common issuable with respect to such conversion shall be validly issued, fully paid

and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

(iv) The Corporation shall not close its books against the transfer of Class L Common or of Class A Common issued or issuable upon conversion of Class L Common in any manner which interferes with the timely conversion of Class L Common. The Corporation shall assist and cooperate with any holder of shares required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of shares hereunder (including, without limitation, making any filings required to be made by the Corporation).

(v) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common, solely for the purpose of issuance upon the conversion of the Class L Common, such number of shares of Class A Common issuable upon the conversion of all outstanding Class L Common. All shares of Class A Common which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable and free from all taxes, liens and charges. The Corporation shall take all such actions as may be necessary to ensure that all such shares of Class A Common may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Class A Common may be listed (except for official notice of issuance which shall be immediately delivered by the Corporation upon each such issuance). The Corporation shall not take any action which would cause the number of authorized but unissued shares of Class A Common to be less than the number of such shares required to be reserved hereunder for issuance upon conversion of the Class L Common.

Section 5. Registration of Transfer. The Corporation shall keep at its principal office (or such other place as the Corporation reasonably designates) a register for the registration

of Common Shares. Upon the surrender of any certificate representing shares of any class of Common Shares at such place, the Corporation shall, at the request of the registered holder of such certificate, execute and deliver a new certificate or certificates in exchange therefor representing in the aggregate the number of shares of such class represented by the surrendered certificate, and the Corporation forthwith shall cancel such surrendered certificate. Each such new certificate will be registered in such name and will represent such number of shares of such class as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate. The issuance of new certificates shall be made without charge to the holders of the surrendered certificates for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such issuance.

Section 6. Replacement. Upon receipt of evidence reasonably satisfactory to the Corporation (an affidavit of the registered holder will be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing one or more shares of any class of Common Shares, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation (provided that if the holder is a financial institution or other institutional investor its own agreement will be satisfactory), or, in the case of any such mutilation upon surrender of such certificate, the Corporation shall (at its expense) execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

Section 7. Notices. All notices referred to herein shall be in writing, shall be delivered personally or by first class mail, postage prepaid, and shall be deemed to have been given when so delivered or mailed to the Corporation at its principal executive offices and to any

stockholder at such holder's address as it appears in the stock records of the Corporation (unless otherwise specified in a written notice to the Corporation by such holder).

Section 8. Amendment and Waiver. No amendment or waiver of any provision of this Article IV shall be effective without the prior written consent of the holders of a majority of the then outstanding Common Shares voting as a single class; provided that no amendment as to any terms or provisions of, or for the benefit of, any class of Common Shares that adversely affects the powers, preferences or special rights of such class of Common Shares shall be effective without the prior consent of the holders of a majority of the then outstanding shares of such affected class of Common Shares, voting as a single class.

Part C. Definitions

"Distribution" means each distribution made by the Corporation to holders of Common Shares, whether in cash, property, or securities of the Corporation and whether by dividend, liquidating distributions or otherwise; provided that neither of the following shall be a Distribution: (a) any redemption or repurchase by the Corporation of any Common Shares for any reason or (b) any recapitalization or exchange of any Common Shares, or any subdivision (by stock split, stock dividend or otherwise) or any combination (by stock split, stock dividend or otherwise) of any outstanding Common Shares.

"Original Cost" of each share of Class L Common shall be equal to the amount originally paid for such share when it was issued by the Corporation (as proportionally adjusted for all stock splits, stock dividends and other recapitalizations affecting the Class L Common).

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

"Public Offering" means any offering by the Corporation of its capital stock or equity securities to the public pursuant to an effective registration statement under the Securities Act of 1933, as then in effect, or any comparable statement under any similar federal statute then in force.

"Recapitalization Agreement" means that certain Recapitalization Agreement dated as of June 5, 1998 by and among the Corporation and certain investors.

"Unpaid Yield" of any share of Class L Common means an amount equal to the excess, if any, of (a) the aggregate Yield accrued on such share, over (b) the aggregate amount of Distributions made by the Corporation that constitute payment of Yield on such share.

"Unreturned Original Cost" of any share of Class L Common means an amount equal to the excess, if any, of (a) the Original Cost of such share, over (b) the aggregate amount of Distributions made by the Corporation that constitute a return of Original Cost of such share.

"Yield" means, with respect to each share of Class L Common for each calendar quarter, the amount accruing on such share each day during such quarter at the rate of 15% per annum of the sum of (a) such share's Unreturned Original Cost, plus (b) Unpaid Yield thereon for all prior quarters. In calculating the amount of any Distribution to be made during a calendar quarter, the portion of a Class L Common share's Yield for such portion of such quarter elapsing before such Distribution is made shall be taken into account.

ARTICLE IV

The corporation is to have perpetual existence.

Article V is hereby deleted.

Article VI hereby becomes Article V as follows:

ARTICLE V

1. The management of the business and the conduct of the affairs of the corporation shall be vested in its board of directors.
2. The By-Laws of the corporation may be amended or repealed by majority vote of the board of directors.

Article VII hereby becomes Article VI as follows:

ARTICLE VI

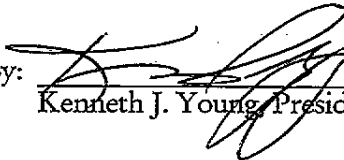
Each director and officer of the corporation, whether or not then in office, shall be indemnified by the corporation against all costs and expenses reasonably incurred by or imposed upon him in connection with or arising out of any claim, demand, action, suit or proceeding in which he may be involved or to which he may be made a party by reason of his being or having been a director or officer of the corporation. Said costs and expenses shall include attorneys' fees and the cost of a reasonable settlement made with a view to curtailment of costs of litigation, except in relation to matters as to which such officer or director finally shall be adjudged in any such action, suit, proceeding to be liable for negligence or misconduct in the performance of his duty as an officer or director. Such right of indemnification shall not be exclusive of any other rights to which such person may be entitled as a matter of law, and the foregoing right of indemnification shall inure to the benefit of the heirs, executors and administrators of any such director or officer.

The foregoing have been adopted pursuant to Florida Statute Section 607.194(4), by the directors and shareholders of the corporation on July 8, 1998. There is no discrepancy between the corporation's Amended and Restated Articles of Incorporation and the other provisions of the Second Amended and Restated Articles of Incorporation other than the inclusion of the amendments adopted pursuant to Florida Statute Section 607.194(4).

The undersigned hereby certifies that this Second Amended and Restated Articles of Incorporation contains an amendment to the articles of incorporation and was duly approved by joint shareholder and director action on July 8, 1998 whereby the number of votes cast therefore by each voting group (shareholders and directors) was sufficient for approval by that voting group.

IN WITNESS WHEREOF, the undersigned, hereby executes this Second Amended and Restated Articles of Incorporation of Bentley's Luggage Corp. this 8th day of July, 1998.

BENTLEY'S LUGGAGE CORP.

By: 
Kenneth J. Young, President