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Division of Corporations
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MERGER OR SHARE EXCHANGE

NATIONAL KIDNEY FOUNDATION OF FLORIDA, INC.

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Page Count	03
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Merger
CC
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November 20, 2008

FLORIDA DEPARTMENT OF STATE

Division of Corporations

NATIONAL KIDNEY FOUNDATION OF FLORIDA, INC.

1040 WOODCOCK RD

SUITE 119

ORLANDO, FL 32803US

SUBJECT: NATIONAL KIDNEY FOUNDATION OF FLORIDA, INC.

REF: 758225

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

The mentioned attached Agreement of Merger was not enclosed.

The merger should include the manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in whole or in part, into cash or other property and the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations, or other securities of the surviving or any other corporation or, in whole or in part, into cash or other property.

If you have any questions concerning this matter, please either respond in writing or call (850) 245-6964.

Irene Albritton
Regulatory Specialist II

Letter Number: 708A000:7918

P.O BOX 6327 - Tallahassee, Florida 32314

ARTICLES OF MERGER
(Nor for Profit Corporations)

The following articles of merger are submitted in accordance with the Florida Not For Profit Corporation Act, pursuant to section 617.1105, Florida Statutes.

FIRST: The name and jurisdiction of the surviving corporation:

Name	Jurisdiction	Document Number
National Kidney Foundation of Florida, Inc.	Florida	758225

SECOND: The name and jurisdiction of the merging corporation:

Name	Jurisdiction	Document Number
The Kidney Foundation of South Florida, Inc.	Florida	749334

THIRD: The Plan of Merger is attached.

FOURTH: The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State.

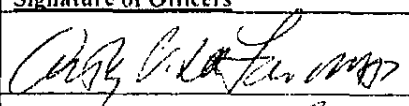
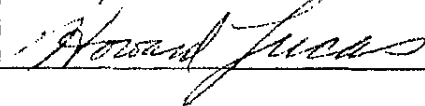
FIFTH: Adoption of Merger by Surviving and Merging Corporations:

There are no members of either corporation entitled to vote on the plan of merger.

The adoption of the merger by the surviving corporation was approved by unanimous consent of the Board of Trustees effective June 28, 2003.

The adoption of the merger by the merging corporation was approved by unanimous consent of the Board of Directors effective June 28, 2003.

SIXTH: Signatures for Each Corporation:

Name of Corporation	Signature of Officers	Name and Title
National Kidney Foundation of Florida, Inc.		Anthony P. Defeo, President
The Kidney Foundation of South Florida, Inc.		Howard Lucas, President

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DIVISION OF CORPORATIONS
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PLAN OF MERGER

The following plan of merger is submitted in compliance with Section 617.1101, Florida Statutes and in accordance with the laws of any other applicable jurisdiction of incorporation.

The name and jurisdiction of the surviving corporation:

Name	Jurisdiction
National Kidney Foundation of Florida, Inc.	Florida

The name and jurisdiction of the merging corporation:

Name	Jurisdiction
The Kidney Foundation of South Florida, Inc.	Florida

The terms and conditions of the merger are specified on the attached Agreement of Merger.

Kidney Foundation

Robert M. Maycr

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MERGING AGREEMENT

This Merging Agreement (the "Agreement") is made and entered into this _____ day of _____, 2003, by and between the National Kidney Foundation of Florida, Inc., a Florida not-for-profit corporation, (hereinafter referred to as "NKF") and the Kidney Foundation of South Florida, Inc., a Florida not-for-profit corporation (hereinafter referred to as "KFSF") (each also referred to as a "Party" and collectively as the "Parties").

WHEREAS, both Parties have similar missions and goals, albeit different in priorities and geographic areas, of providing education about kidney disease, research in the causes and cures for kidney disease and support to persons with kidney disease, and each seeks to better use their resources in carrying out those missions;

WHEREAS, KFSF has a well-established presence in Monroe, Miami-Dade, Broward, Collier and Lee Counties (hereinafter known as the "South Florida Region");

WHEREAS, NKF has a well-established presence in most of Florida and seeks to increase its presence and activity in the South Florida Region to expand its educational programs, health screenings, public awareness, patient assistance programs; and

WHEREAS, both Parties wish to combine their efforts and fund-raising efforts to better serve the patient and constituent communities and the public; and

WHEREAS, each Party's Board of Directors (hereinafter, the "Board" or "Boards") has undertaken an extensive joint coordination project and efforts to determine the feasibility of combining their operations and efforts; now

THEREFORE, in the spirit of such cooperation and in order to best commence the process of combining the operations of the Parties on a more permanent basis it is mutually agreed, effective July 1, 2003, that:

I. KFSF's Duties. During the Term of this Agreement, KFSF will:

- 1.1. Cease its current active fundraising, educational, research and patient support and operations;
- 1.2. Refer all of its volunteers and supporters to NKF's Local Office and use its best efforts to ensure such persons and entities are redirected and encouraged to lend their support and efforts to NKF instead of KFSF thereafter;
- 1.3. Provide NKF with a complete copy (in printed and electronic form) of its donor base, donor names, and other fund-raising assets, as determined by KFSF's Board;
- 1.4. Cease all active organized fund-raising efforts other than those combined with the NKF. All future fundraising projects, including but not limited to the Tulip Ball, Cadillac Golf Tournament, and any current projects shall continue under the name

Robert M. Mayer

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of the NKF thereafter (collectively, the "Projects") except for the Richardson and Cuno Lectureships and segregated funds designated for them (the "Lectureship Funds"); and

1.5. Provide funds generated by the Lectureship Funds to NKF pursuant to a separate Agreement (the "Lecture Agreement") under which NKF will ensure that the terms of those lectureships are met until such time as KFSF either ceases to exist or revokes said agreement by majority vote of its then existing board.

2. **NKF's Duties.** During the Term of this Agreement, NKF shall:

2.1. Assume, as of July 1, 2003, operations and expenses of the current KFSF office and thereafter always maintain an office in the South Florida Region, staffed by at least one full time person (unless a majority of the NKF board members resident in the South Florida Region approve closure of said office)

2.1.1. The office location may be changed after consultation with the then current Board of KFSF.

2.1.2. Additionally, NKF will add 1 additional staff person to be based in this office within 180 days of the effective date of this Agreement.

2.1.3. Additional staff will be added as necessary as determined by the Executive Director and approved by the NKF Board through the budgeting process.

2.2. Modify its Articles and Bylaws, in a manner reasonably acceptable to KFSF, to permanently create:

2.2.1. Three (3) geographically-designated voting member positions, one each from Dade, Broward and Collier Counties, on NKF's Board which shall initially be filled by persons selected by KFSF and thereafter in accordance with NKF's normal nominating procedure; and

2.2.2. One geographically-designated officer's voting position on the Executive Committee of NKF which shall initially be filled by the person designated by KFSF and thereafter by a person selected a majority vote of the NKF board members then resident in the South Florida Region.

2.3. Approve up to ten (10) at large NKF Board Members, as designated by the Board of KFSF (half of whom will be designated as 1 year-term Board Members and half will be designated as two year term Board Members), to serve for the term beginning with the fiscal year of July 1, 2003. Nothing shall in any way prohibit other members from becoming at large members of the NKF Board through the annual nominating process.

2.4. Encourage all current KFSF volunteers, regardless of number, to serve as members of NKF Committees should they demonstrate a desire to do so.

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- 2.5. Continue to hold its Board meetings quarterly, but will hold no less than one (1) meeting a year in the South Florida Region.
- 2.6. Continue the Projects, assume and carry out the terms of any existing grants; direct aid, and programs KFSF has conducted previously in its own name as well as those conducted by NKF in the South Florida Area. All costs, expenses and fees for such efforts shall be written on accounts funded and maintained by the NKF.
- 2.7. Conduct its direct patient aid and other patient services in the South Florida Region as follows:
- 2.7.1. By maintaining or exceeding levels, for the fiscal year July 1, 2003 to June 30, 2004, of not less (estimated \$75K + \$36K annually (to be verified)) by KFSF and NKF in that region and thereafter these funding levels will be reexamined within the NKF and Chapter budgeting process approved by the Ways and Means Committee and the Board of NKF. NKF affirmatively states that it has the full intention of maintaining the direct patient aid at current levels in the South Florida Region and increasing other patient services provided thereafter.
- 2.7.2. By ensuring that its Direct Aid guidelines will be continuously reviewed by the NKF Direct Aid Committee to ensure all appropriate aspects of the program are addressed and implemented in accordance with the intentions of both Boards and in the spirit of this Agreement.
- 2.7.3. By establishing, on or before July 1, 2003, two sub-committees, which shall be funded, staffed and supported during at least the first twelve months of this Agreement, and empowered to make such grants in: i) the current Naples Chapter area; and ii) the balance of the KFSF area. Each such sub-committee shall consist of equal numbers of representatives, as selected by each Board, and Jennifer Cummings shall be assigned as one of the staff members supporting that sub-committees. Said sub-committees shall report to the Direct Aid Committee monthly.
- 2.8. Enter into the Lecture Agreement and carry out the terms of said Lecture Agreement (See Section 1.5 above);
- 2.9. Organize the former volunteers of KFSF as a chapter of NKF subject to the terms and conditions of the Chapter Affiliation Agreement as attached as Exhibit 2A and incorporated herein.
3. **Modification of KFSF's Operations and Organization.** As part of this Agreement, KFSF will undertake to streamline and simplify its organization to restrict its operations, in accordance with all applicable laws, rules and regulations, to managing and carrying out its mission by distribution of funds and assets to others (such as NKF) for their use: i) to benefit of persons with kidney disease; ii) to work towards improved care and

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treatment of those afflicted with a disease of the kidneys through improved methods of services and research, prevention, detection, diagnosis and treatment of kidney disease and disorders. In doing so, KFSF will:

- 3.1. Continue to maintain its current investment accounts and other associated accounts;
- 3.2. Be separately maintained, managed and governed by a five person board of governors initially elected by the current members of the KFSF Board of Directors which shall, at all times include at least one current members of the NKF Board resident in the South Florida Region; and
- 3.3. Will consider NKF as a potential donee of such funds as are available to KFSF, without any commitment that such funds will be donated or transferred to NKF, at any date certain in the future.
4. **Current Employee Of KFSF.** Current KFSF Executive Director Jennifer Cummings will be employed by NKF, beginning July 1, 2003, in the position of Area Director. A copy of the job description is attached as exhibit ____ and incorporated herein. Her salary will be what she is earning in her position at the KFSF as of January 1, 2003 and she will be entitled to all benefits provided in the NKF Personnel Manual. She will report to and be directly supervised by the NKF Executive Director and subject to an annual review as with all NKF staff. She will be based in the Office described above, but will assist NKF in whatever capacity the Executive Director deems necessary and so directs. She shall not be terminated nor her position eliminated, without cause, for at least one year after July 1, 2003.
5. **Term.** The Term of this Agreement shall be for two (2) years if not sooner terminated by action of both Party's Boards.
6. **Dissolution of KFSF.** In the event of dissolution of KFSF or distribution of all or part of its assets, as determined solely by its then current Board in its unlimited and unfettered discretion, consideration will initially be given to donation of its assets to NKF.
7. **No Prohibitions:**
 - 7.1. Nothing in this Agreement or otherwise shall prohibit KFSF from commencing its prior fundraising and other operations in the future provided it makes no attempt to do so for the next twenty-four months and gives NKF six months written notice of its intent to terminate this Agreement and do so;
 - 7.2. Once item 7.1 above has been complied with, soliciting donations from any person or entity on the lists and records provided to NKF under this Agreement.
 - 7.3. So long as KFSF has not actively solicited such funds, nothing shall restrict it from accepting donations at anytime during the term of this Agreement from any person or entity which designates such funds for KFSF such as, for example and not by

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way of limitation, from wills or trusts. Any funds received from prior solicitations or events, except from wills or trusts, shall be turned over to NKF.

8. Miscellaneous Provisions.

- 8.1. Arbitration of Disputes. Any dispute arising between the parties out of this Agreement or any resulting transaction, shall be initially referred to mediation, commenced by the hand-delivery delivery of a letter to the President of the other Party demanding such mediation and setting forth the dispute and proposed resolution sought, by a panel of three persons, one selected by each of the Boards of NKF and KFSF and a third selected by the two persons so selected (none of whom may be a member of the Board of the Party selecting them nor related to someone who is)(the "Panel"). This Panel shall meet, hear a no longer than one hour long statement or presentation from each side and then provide, within five workdays thereafter, its written findings and any recommended resolution and other possible resolutions of the dispute to the Boards which shall each then vote on the recommendations. If no such informal resolution can be reached within thirty (30) days thereafter, the matter shall be submitted to and decided by binding arbitration in accordance with the Commercial Rules then in effect of the American Arbitration Association in the offices of the American Arbitration Association. The parties shall not have the right to discovery in such arbitration. The arbitrator shall not award any party attorneys' fees or other legal costs arising out of such arbitration. The costs of the arbitrator and the arbitration shall be borne equally.
- 8.2. Entire Agreement. This Agreement contains all of the terms agreed upon between the parties with respect to the subject matter hereof and supersedes any and all prior written or oral understandings.
- 8.3. Amendments. This Agreement may not be changed, modified or terminated except by an instrument executed by the parties hereto.
- 8.4. Waivers. No waiver by either party of any failure or refusal of the other party to comply with any of its obligations shall be deemed a waiver of any other or subsequent failure or refusal so to comply.
- 8.5. Assignments. This Agreement may not be assigned nor may any part of a Party's rights and obligations hereunder be assigned to one or more other persons or parties without the consent of the other Party.
- 8.6. Section Headings. The headings of the various Sections of this Agreement have been inserted only for the purposes of convenience, and are not part of this Agreement and shall not be deemed in any manner to modify, explain, qualify or restrict any of the provisions of this Agreement.
- 8.7. Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of Florida, applicable to contracts made and to be performed

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CUMMINGS & LOCKWOOD LLC
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wholly within such State without giving effect to the conflict-of-laws principles thereof. In the event of any litigation, it must be filed and heard before an appropriate court, entity or agency in Palm Beach County, Florida.

Kidney Foundation of South Florida, Inc.

By: _____
Title: _____

Date: _____

National Kidney Foundation of Florida, Inc.

By: _____
Title: _____

Date: _____