

A 29129

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January 15, 1999

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effec. date

VIA FEDERAL EXPRESS

Florida Department of State
Division of Corporations
409 East Gaines Street
Tallahassee, FL 32399

SECRETARY OF STATE
DIVISION OF CORPORATIONS
99 FEB 19 PM 3:58

**Re: Merger of Avalon Associates of Delaware Limited Partnership and
Thirteen Stars Associates, Limited Partnership**

Dear Gentlemen:

Enclosed for filing please find Articles of Merger for the above-referenced merger along with our firm check in the amount of \$105.00, to cover recording costs. Upon recording the enclosed, please return the original to undersigned.

Very truly yours,

Eric B. Marks 1/15/99
Eric B. Marks

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-01/20/99-01008-016
***105.00 ***105.00

EBM

Enclosure

Name Availability	<i>EBM</i>
Document Examiner	
Updater	
Updater Verifier	
Acknowledgement	
V. P. Verifier	

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FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State

January 28, 1999

ERIC B. MARKS
AKERMAN, SENTERFITT & EIDSON, P.A.
POST OFFICE BOX 231
ORLANDO, FL 32802-0231

SUBJECT: AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP
Ref. Number: A29129

We have received your document for AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP and your check(s) totaling \$105.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The effective date of the Merger can not be prior to the date of filing. Please correct your document.

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 (850) 487-6967.

Michelle Hodges
Document Specialist

Letter Number: 799A00003945

RECEIVED
FEB 03 1998

ARTICLES OF MERGER
Merger Sheet

MERGING: -----

THIRTEEN STARS ASSOCIATES, LIMITED PARTNERSHIP
, A97000002513

INTO

AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP, a Florida
entity, A29129.

File date: February 19, 1999

Corporate Specialist: Michelle Hodges

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SECRETARY OF STATE
DIVISION OF CORPORATIONS
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**ARTICLES OF MERGER
OF
THIRTEEN STARS ASSOCIATES, LIMITED PARTNERSHIP
WITH AND INTO
AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP**

Pursuant to the provisions of Section 620.201, Florida Statutes, **AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP**, a Florida not for profit corporation, as the Surviving Corporation in a Merger hereby submits the following Articles of Merger:

1. **Parties to the Merger.** The names of the limited partnerships which are parties to the merger (the "**Merger**") contemplated by these Articles of Merger are **THIRTEEN STARS ASSOCIATES, LIMITED PARTNERSHIP**, a Florida limited partnership (the "**Merging Limited Partnership**"), and **AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP**, a Florida limited partnership (the "**Surviving Limited Partnership**"). The surviving limited partnership in the Merger is the Surviving Limited Partnership.

2. **Plan of Merger.** The Plan of Merger is set forth in that certain Agreement and Plan of Merger dated December 15, 1998 between **THIRTEEN STARS ASSOCIATES LIMITED PARTNERSHIP** and **AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP** (the "**Agreement of Merger**"), a copy of which Agreement of Merger is attached hereto as **Exhibit "A"**.

3. **Approval.** The partners of the Merging Limited Partnership and Surviving Limited Partnership have each adopted the plan of merger by written consent executed in accordance with Section 620.201 and 620.202 F.S. **AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP**, a Florida limited partnership. The general partner of the Surviving Limited Partnership shall remain the sole general partner of the Surviving Limited Partnership and has provided its consent thereto in accordance with Section 620.202 (2) F.S.

4. **Effective Date.** The Merger shall become effective upon filing.

Dated the 16th day of December, 1998.

[signatures on following page]

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DIVISION OF CORPORATIONS
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AGREEMENT AND PLAN OF MERGER

by and between

THIRTEEN STARS ASSOCIATES LIMITED PARTNERSHIP,
a Florida limited partnership

and

AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP,
a Florida limited partnership

December 15, 1998

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This Table of Contents is for convenience and reference only, and does not serve to define or expand the terms and conditions of this Agreement.

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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Agreement") was made and entered into this 15th day of December, 1998 by and among:

AA7000002513
THIRTEEN STARS ASSOCIATES LIMITED PARTNERSHIP, a Florida limited partnership with its principal office located at One Financial Plaza, Fort Lauderdale, Florida (hereinafter referred to as the "Merging Limited Partnership")

and

A29129
AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP, a Florida limited partnership, with its principal office located at One Financial Plaza, Fort Lauderdale, Florida (hereinafter referred to as the "Surviving Limited Partnership").

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WITNESSETH:

WHEREAS, the Merging Limited Partnership is a limited partnership duly organized and existing under and by virtue of the laws of the State of Florida; and

WHEREAS, the Surviving Limited Partnership is a limited partnership duly organized and existing under and by virtue of the laws of the State of Florida; and

WHEREAS, pursuant to duly authorized action by their respective general and limited partners, the Merging Limited Partnership and the Surviving Limited Partnership have determined that they shall merge (the "Merger") upon the terms and conditions and in the manner set forth in this Agreement and in accordance with Sections 620.201, 620.202, 620.203 and 620.205 of the Florida Statutes, as amended;

NOW THEREFORE, in consideration of the mutual premises herein contained, the Merging Limited Partnership and the Surviving Limited Partnership hereby agree as follows:

1. **MERGER.** The Merging Limited Partnership and the Surviving Limited Partnership agree that the Merging Limited Partnership shall be merged with and into the Surviving Limited Partnership, as a single and Surviving Limited Partnership, upon the terms and conditions set forth in this Agreement and that the Surviving Limited Partnership shall continue under the laws of the State of Florida as the Surviving Limited Partnership.

2. **SURVIVING LIMITED PARTNERSHIP.** On and after the effective date (as defined below) of the Merger:
- (a) The Surviving Limited Partnership shall be the surviving limited partnership, and shall continue to exist as a limited partnership under the laws of the State of Florida, with all of the rights and obligations of such Surviving Limited Partnership as are provided by the Florida Statutes.
 - (b) The Merging Limited Partnership shall cease to exist, and its property shall become the property of the Surviving Limited Partnership as the Surviving Limited Partnership.
 - (c) The name and address of the surviving general partner shall be:
BKI ASSOCIATES, INC., a Florida corporation
407 First Avenue
Windermere, Florida 34786

3. **TERMS AND CONDITIONS OF MERGER.** The terms and conditions of the Merger are the following:

- (a) **Limited Partnership Agreement.** The Limited Partnership Agreement of the Surviving Limited Partnership shall continue as the Limited Partnership Agreement of the Surviving Limited Partnership.
- (b) **Certificate of Limited Partnership.** The Certificate of Limited Partnership of the Surviving Limited Partnership shall survive as the Certificate of Limited Partnership of the Surviving Limited Partnership. No amendment to the Certificate of Limited Partnership shall be required as a result of this merger.
- (c) **General Partner.** The General Partner of the Surviving Limited Partnership shall remain as the sole general partner of the Surviving Limited Partnership. No person or entity shall, as a result of the merger continue to be or become a general partner of the Surviving Limited Partnership other than the existing general partner of the Surviving Limited Partnership. By execution of this Agreement and Plan of Merger, the general partner of the Surviving Limited Partnership consents to continue as the general partner of the Surviving Limited Partnership, in accordance with Section 620.202(2)(a), Florida Statutes.
- (d) **Name of Surviving Limited Partnership.** The name of the surviving limited partnership shall be Avalon Associates of Delaware Limited Partnership.

4. **MANNER AND BASIS OF CONVERTING PARTNERSHIP INTERESTS.** For payment to KMA Associates, Inc. of the sum of \$1.00, the receipt and sufficiency of which are hereby acknowledged, the partnership interests of KMA Associates, Inc. (the sole general partner of the Merging Limited Partnership) shall be and are hereby retired. On November 25, 2001, from the first Available Cash (as defined in Paragraph 3.1(a) of the Agreement of Limited Partnership of Avalon Associates of Delaware, L.P.) and prior to any distribution to any partners of the Surviving Limited Partnership, the Surviving Limited Partnership shall pay Tamswiss, Inc. a single payment in the amount of \$800,000.00 (the "Contingent Payment"), the Contingent Payment is consideration to Tamswiss, Inc. for its partnership interest in the Merging Limited Partnership and is subject to the following terms:
- (a) the Surviving Limited Partnership shall be entitled to an early payment discount of the Contingent Payment in the amount of \$11,111.11 per month, for each month the Contingent Payment is made to the Merging Limited Partnership prior to November 25, 2001 (which amount shall be prorated to reflect partial month payment); and
 - (b) if payment is made after November 25, 2001, the Merging Limited Partnership shall pay the Contingent Payment plus interest at the rate of 8% per annum. The interest provided in this Paragraph 4(b) shall be the only penalty incurred by the Surviving Limited Partnership for paying the Contingent Payment after November 25, 2001.
5. **MANNER AND BASIS OF CONVERTING RIGHTS TO ACQUIRE PARTNERSHIP INTERESTS.** No party to this transaction, nor any other third party has any right to acquire the partnership interest of the Surviving Limited Partnership or the Merging Limited Partnership.
6. **APPROVAL.** The Merger contemplated by this Agreement has previously been submitted to and approved by all of the general partners Merging Limited Partnership and the Surviving Limited Partnership and the limited partners having more than a majority of the current percentage in the profits of the Surviving Limited Partnership and the Merging Limited Partnership. Subsequent to the execution of this Agreement by the general partners of the Merging Limited Partnership and the Surviving Limited Partnership, the general partner of the Surviving Limited Partnership shall, and is hereby authorized and directed to, perform all such further acts and execute and deliver to the proper authorities for filing all documents, as the same may be necessary or proper to render effective the merger contemplated by this Agreement.
7. **EFFECTIVE DATE OF MERGER.** The Merger shall be effective on December 15, 1998.

8. **MISCELLANEOUS.**

- (a) **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Florida.
- (b) **No Third Party Beneficiaries.** The terms and conditions of this Agreement are solely for the benefit of the parties hereto, and no person not a party to this Agreement shall have any rights or benefits whatsoever under this Agreement, either as a third party beneficiary or otherwise.
- (c) **Complete Agreement.** This Agreement constitutes the complete agreement between the parties and incorporates all prior agreements and representations in regard to the matters set forth herein and it may not be amended, changed or modified except by a writing signed by the party to be charged by said amendment, change or modification.

IN WITNESS WHEREOF, AVALON ASSOCIATES OF DELAWARE LIMITED PARTNERSHIP and THIRTEEN STARS ASSOCIATES LIMITED PARTNERSHIP have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

Signatures on Following Page

"SURVIVING LIMITED PARTNERSHIP"

**AVALON ASSOCIATES OF DELAWARE
LIMITED PARTNERSHIP**, a Florida
limited partnership

General Partner

BKI ASSOCIATES, INC., a Florida corporation

BY: 
Beat M. Kahli, President

Limited Partner

AVALON DEVELOPMENT ASSOCIATES,
a Florida general partnership

BY: **AVALON DEVELOPMENT COMPANY
OF FLORIDA U.S.A., L.P.**, a Delaware
limited partnership, as general partner of
Avalon Development Associates

By: **AVALON DEVELOPMENT
COMPANY OF FLORIDA, INC.,
d/b/a in Florida as AVALON DEVELOPMENT
COMPANY OF DELAWARE, INC.,
a Delaware corporation, as general partner of
Avalon Development Company of Florida,
U.S.A., L.P.**

By: 
Beat M. Kahli, President

BY: **AVALON DEVELOPMENT COMPANY OF DELAWARE LIMITED**, a Florida limited partnership, as general partner of Avalon Development Associates

By: **AVALON DEVELOPMENT COMPANY OF FLORIDA, INC.,** d/b/a in Florida as **AVALON DEVELOPMENT COMPANY OF DELAWARE, INC.,** a Delaware corporation, as general partner of Avalon Development Company of Delaware Limited

By: 
Beat M. Kahli, President

"MERGING LIMITED PARTNERSHIP"

THIRTEEN STARS ASSOCIATES LIMITED PARTNERSHIP, a Florida limited partnership

General Partner

KMA ASSOCIATES, INC., a Florida corporation

By: 
Michael B. McAfee, President

Limited Partner

TAMSWISS, INC., a Delaware corporation

By: 
Beat M. Kahli, President