

TRANSMITTAL LETTER
FOO000002845

TO: Qualification/Registration Section
Division of Corporations

600002984606--4
-09/13/99--01032--022
*****70.00 *****70.00

SUBJECT: Aurora Foods Inc.

(Name of Corporation)

Dear Sir or Madam:

The enclosed "Application by Foreign Not for Profit Corporation for Authorization to Conduct its Affairs in Florida", "Certificate of Existence", and check are submitted to register the above referenced not for profit corporation to conduct its affairs in Florida.

Please return all correspondence concerning this matter to the following:

Joanna Lowe

(Name of Person)

Aurora Foods Inc.

(Firm/Company)

456 Montgomery Street, Suite 2200

(Address)

San Francisco, CA 94104

(City, State and Zip Code)

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TALLAHASSEE, FLORIDA

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-05/16/00--01008--037
***1300.00 ***1300.00

For further information concerning this matter, please call:

Joanna Lowe

(Name of Person)

at (415) 616-0103

(Area Code & Daytime Telephone Number)

STREET ADDRESS:

Qualification/Tax Lien Section
Division of Corporations
409 E. Gaines St.
Tallahassee, FL 32399

MAILING ADDRESS:

Qualification/Tax Lien Section
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

855/734/672
\$1,150.00

~~WGA-21009~~
FOO-2845
GA 5/22



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

September 15, 1999

JOANNA LOWE
456 MONTGOMERY STREET, SUITE 2200
SAN FRANCISCO, CA 94101

SUBJECT: AURORA FOODS INC.
Ref. Number: W99000021209

We have received your document for AURORA FOODS INC. and your check(s) totaling \$70.00. However, the document has not been filed and is being retained in this office for the following:

Pursuant to section 607.1502(4), 617.1502(4) or 608.502(4), Florida Statutes, this office collects a civil penalty of \$1000 for each year this entity transacted business or conducted its affairs in Florida prior to qualification and the appropriate annual report fees that would have been due this office had the entity qualified the year it began operations in this state. The amount due this office to cover both annual report and penalty fees is \$1,150.00.

If you have any questions concerning the filing of your document, please call (850) 487-6025.

Trevor Brumbley
Document Specialist

Letter Number: 199A00045404

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PricewaterhouseCoopers LLP
333 Market Street
San Francisco CA 94105-2119
Telephone (415) 957 3000
Facsimile (415) 957 3394
(415) 957 3372

April 4, 2000

Florida Department of State
Division of Corporations
Attn. Trevor Brumbley
P.O. Box 6372
Tallahassee, Florida 32314

**Re: Aurora Foods Inc. Ref. Number: W99000021209
(FEI Number: 94-3303521)**

Dear Mr. Brumbley:

We have received your letter dated September 15, 1999 regarding the "Application by Foreign Corporation for Authorization to Transact Business in Florida". In your letter, you state that the application has not been filed and is being retained in your office for the following reason: Pursuant to section 607.1502(4), 617.1502(4) or 608.502(4), Florida Statutes, this office collects a civil penalty of \$1,000 for each year an entity transacted business or conducted affairs in Florida prior to qualification and the appropriate annual report fees that would have been due your office had the entity qualified the year it began operations in Florida. You further indicate that the amount of \$1,150.00 is due to cover both annual report and penalty fees. At the time of Aurora's registration on August 27, 1999, we believe Aurora had "reasonable cause" for the late registration and that the penalty should be waived.

Background Information

Aurora is a publicly traded Delaware corporation, incorporated in 1998, and has experienced tremendous growth since this time largely due to the acquisition of several well-recognized food brands. Prior to a corporate restructuring, Aurora owned the stock of two holding companies, Aurora Food Holdings, Inc. and VDK Holdings Inc. Each of these holding companies, in turn, owned an operating entity "Old" Aurora Foods, Inc. and Van de Kamp's, Inc., respectively. In July of 1998, Aurora liquidated the holding companies and their wholly owned subsidiaries into the present Aurora entity. An IPO was completed shortly thereafter.

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Florida Department of State
April 4, 2000
Reference: Aurora Foods Inc.

During 1999 PricewaterhouseCoopers LLP was engaged to perform an extensive multistate nexus study for Aurora. As a result of this study, Aurora filed an Application by Foreign Corporation for Authorization to Transact Business in Florida. Prior to conducting the nexus study, Aurora was unaware of its state registration responsibilities in Florida. Having a very small management team in place, Aurora encountered difficulty in ascertaining the registration requirements of the various corporate entities in the Aurora group. In an effort to determine the various state tax compliance and registration requirements for the newly formed Aurora, the aforementioned nexus study was commissioned. This study considered all states where Aurora employed tangible personal property, employees, brokers or agents, and/or solicited and conducted sales activities. After analyzing Aurora's business activities in numerous states, including Florida, it was determined that Aurora had established nexus with Florida. Accordingly, Aurora promptly prepared and filed the Application by Foreign Corporation for Authorization to Transact Business in Florida on August 27, 1999.

Grounds for Reasonable Cause

As Aurora's late registration was due to reasonable cause and not to willfull negligence, willful neglect, or fraud based on specific facts and circumstances we respectfully request that the asserted penalties be waived. The standard used in this determination shall be whether Aurora exercised ordinary care and prudence and was nevertheless unable to comply.

Reasonable Cause and Not Willful Neglect Existed for Aurora's Actions

We respectfully submit that reasonable cause existed for the late registration of Aurora Food, Inc. We believe that the complex nature of the reorganization that resulted in formation of the new Aurora entity, coupled with a small management team's inability to quickly obtain information regarding the activities of all divisions within the new entity, constitute "reasonable cause" for Aurora's late registration. Aurora was simply unaware of its registration responsibilities in Florida prior to obtaining the results of the nexus study. Aurora did not wilfully neglect to register with the Florida Department of State in a timely manner. In fact, it is clear that Aurora strives to comply with the registration requirements in every state in which it conducts business, as exemplified by the engagement of PricewaterhouseCoopers LLP to perform the nexus study and immediately prepare all required registration forms.

Prior to this letter, Aurora paid the registration fee in the amount of \$70.00. Aurora's voluntary actions to comply demonstrate its intent to act in good faith and support its reasonable cause claim.

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Florida Department of State
April 4, 2000
Reference: Aurora Foods Inc.

Conclusion

Based on the above discussion, we respectfully request that the Florida Department of State waive the penalty in the amount of \$1,150.00, related to the late filing of the Application by Foreign Corporation for Authorization to Transact Business in Florida.

Should you have any questions, please call Matthew C. Stolte at (415) 957-3391 or me at (415) 371-2511.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sam Melehani', written over a horizontal line.

Sam Melehani

cc: Matthew C. Stolte – PricewaterhouseCoopers LLP – San Francisco
Nancy Summersgill – Aurora Foods Inc. – San Francisco

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FLORIDA DEPARTMENT OF STATE
Katherine Harris
Secretary of State
OFFICE OF THE GENERAL COUNSEL

F A C S I M I L E T R A N S M I T T A L

TO FAX NUMBER: (415) 957-3394

Please deliver the following pages to:

NAME: Mr. Sam Melehani

COMPANY: Pricewaterhouse Coopers LLP

CITY/STATE: San Francisco, California

SENDER: Gerard T. York, Esq.,
Assistant General Counsel

DATE/TIME: 04/12/00 4:52 PM

NUMBER OF PAGES (including transmittal sheet):2

FROM FAX: 850/922-5763 (Suncom 292-5763)

COMMENTS: This communication is in response to your letter dated April 4, 2000 to Trevor Brumbley at the Division of Corporations regarding annual report fees and statutory penalties which would be assessed against Aurora Foods, Inc., under section 607.1502(4), Florida Statutes.

An application filed with the Division of Corporations indicates Aurora Foods, Inc., has transacted business in Florida since 1998. Accordingly, an amount of \$ 2300.00 is due, reflecting annual report fees of \$ 300.00 and statutory penalties of \$ 2000.00. We would, however, offer to settle the issue of annual report fees and foreign non-qualified penalties from Aurora Foods, Inc., for the sum of \$ 1300.00, reflecting

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annual report fees from 1998 of \$ 300.00 and penalties from 1998 of \$ 1000.00 assessed at the statutory minimum of \$500.00 per year. This offer remains in effect until May 31, 2000.

Upon completion of the application and receipt of a check in that amount payable to the Department of State, Division of Corporations, I will instruct the Division of Corporations to issue Aurora Foods, Inc., a Certificate of Authority to transact business in Florida. Please mail the check to this attorney at: Office of General Counsel, LL-10, The Capitol, Tallahassee, Florida 32399-0250.

Please do not hesitate to contact me should you have any questions.

If there are any problems in receiving this transmission, call Cara at 850/414-5536 or Suncom 994-5536.

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Department of State

Memorandum Office of the General Counsel

TO: File

FROM: Gerard York, Assistant General Counsel

DATE: May 12, 2000

RE: Aurora Foods, Inc.

Based on my review of the file and the payments received from the corporation, it is my recommendation that this file be closed. Corporation has paid outstanding report fees from 1998 of \$300.00 and foreign non-qualified penalties of \$ 1000.00 assessed at the statutory minimum of \$500.00 per year and wishes to be qualified to do business in the State of Florida. Accordingly, it is recommended corporation be issued a certificate of authority.

/gty

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FT

**APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT
BUSINESS IN FLORIDA**

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO
REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.

1. Aurora Foods Inc.
(Name of corporation: must include the word "INCORPORATED", "COMPANY", "CORPORATION" or words or abbreviations of like import in language as will clearly indicate that it is a corporation instead of a natural person or partnership if not so contained in the name at present.)
2. Delaware 3. 94-3303521
(State or country under the law of which it is incorporated) (FEI number, if applicable)
4. 6/19/98 5. Perpetual
(Date of incorporation) (Duration: Year corp. will cease to exist or "perpetual")
6. 6/26/98
(Date first transacted business in Florida.) (SEE SECTIONS 607.1501, 607.1502 and 817.155, F.S.)
7. 456 Montgomery Street, Suite 2200
San Francisco, CA 94104
(Current mailing address)

8. The corporation will sell and distribute its frozen food & dry grocery products.
(Purpose(s) of corporation authorized in home state or country to be carried out in the state of Florida)

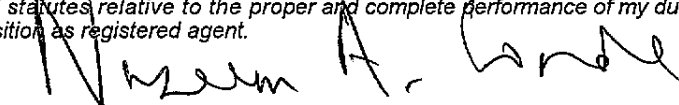
9. Name and street address of Florida registered agent: (P.O. Box or Mail Drop Box **NOT** acceptable)

Name: CT CORPORATION SYSTEM

Office Address: 1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324, Florida, _____
(Zip Code)

10. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, 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 relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.



(Registered agent's signature) NASEEM A. CONDE
SPECIAL ASST. SECRETARY

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

12. Names and addresses of officers and/or directors: (Street address **ONLY** -- P.O. Box **NOT** acceptable)

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A. DIRECTORS (Street address only - P.O. Box NOT acceptable)

Chairman: See attached

Address: _____

Vice Chairman: _____

Address: _____

Director: _____

Address: _____

Director: _____

Address: _____

B. OFFICERS (Street address only - P.O. Box NOT acceptable)

President: See attached

Address: _____

Vice President: _____

Address: _____

Secretary: _____

Address: _____

Treasurer: _____

Address: _____

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 TALLAHASSEE, FLORIDA

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NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13. 

(Signature of Chairman, Vice Chairman, or any officer listed in number 12 of the application)

14. M. LAURIE CUMMINGS, CHIEF FINANCIAL OFFICER

(Typed or printed name and capacity of person signing application)

DIRECTORS

<u>Name</u>	<u>Address</u>
Ian R. Wilson	Darford Partnership, LLC 456 Montgomery Street, Suite 2200 San Francisco, CA 94104
James B. Ardrey	c/o Richards & O'Neil, LLP 885 Third Avenue New York, NY 10022
Clive A. Apsey	Tiger Oats Limited 85 Bute Lane Sandown, Sandton 2196 Republic of South Africa
George McCown	McCown De Leeuw & Company 3000 Sand Hill Road Building 3, Suite 290 Menlo Park, CA 94025
David E. De Leeuw	McCown De Leeuw & Company 101 East 52nd Street, 31st Floor New York, NY 10222
Charles J. Delaney	UBS Capital Corporation 299 Park Avenue, 34th Floor New York, NY 10171
Richard C. Dresdale	Fenway Partners, Inc. 152 West 57th Street, 59th Floor New York, NY 10019
Andrea Geisser	Fenway Partners, Inc. 152 West 57th Street, 59th Floor New York, NY 10019
Peter Lamm	Fenway Partners, Inc. 152 West 57th Street, 59th Floor New York, NY 10019
Steven Zuckerman	McCown De Leeuw & Company 3000 Sand Hill Road Building 3, Suite 290 Menlo Park, CA 94025

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OFFICERS

<u>Name</u>	<u>Address</u>	<u>Office</u>
Ian R. Wilson	Darford Partnership, LLC 456 Montgomery Street, Suite 2200 San Francisco, CA 94104	Chairman of the Board and Chief Executive Officer
James B. Ardrey	c/o Richards & O'Neil, LLP 885 Third Avenue New York, NY 10022	Vice Chairman and Director
Ray Chung	Dartford Partnership, LLC 456 Montgomery Street, Suite 2200 San Francisco, CA 94104	Executive Vice President
M. Laurie Cummings	Dartford Partnership, LLC 456 Montgomery Street, Suite 2200 San Francisco, CA 94104	Chief Financial Officer and Secretary
Thomas O. Ellinwood	Van De Kamp's, Inc. 1000 Union Station, Suite 200 St. Louis, MO 63103	President, VDK Division
Thomas J. Ferraro	Aurora Foods Inc. 445 Hutchinson Avenue, Suite 960 Columbus, OH 43235	President, AFI Division
Anthony A. Bevilacqua	Van De Kamp's, Inc. 1000 Union Station, Suite 200 St. Louis, MO 63103	Executive Vice President - Sales and Marketing, VDK Division
C. Gary Willett	Aurora Foods Inc. 445 Hutchinson Avenue, Suite 960 Columbus, OH 43235	Executive vice President, AFI Division

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TALLAHASSEE, FLORIDA

State of Delaware
Office of the Secretary of State

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I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "AURORA FOODS INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SEVENTEENTH DAY OF AUGUST, A.D. 1999.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

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AUTHENTICATION: 9925345

DATE: 08-17-99