

F95000000529

MOSES ENTERPRISES, INC.

4361 Pobblo Beach Road
Canfield OH 44406

December 8, 1994

Qualification and Registration
Section

Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee FL 32314

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*****78.75 *****78.75

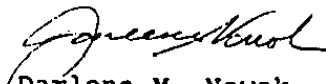
Re: Qualification of Moses Enterprises, Inc.

Dear Sir:

W44-26602

Enclosed please find an application for authorization to do business in the state of Florida. Also enclosed is a current good standing certificate from Ohio and a check for \$78.75. This check will cover the filing fee (\$35.00), the registered agent designation (\$35.00) and a Certificate of Status (\$8.75). Please mail the latter to me at the address below. In addition, please contact me if there are any questions.

Very truly yours,



Darlene M. Nowak, Esq.
Marcus & Shapira
35th Floor
One Oxford Center
Pittsburgh PA 15219
(412) 471-3490

encl.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
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FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

December 14, 1994

DARLENE M. NOWAK, ESQUIRE
MARCUS & SHAPIRA
ONE OXFORD CENTER, 35TH FLOOR
PITTSBURGH, PA 15219

SUBJECT: MOSES ENTERPRISES, INC.
Ref. Number: W94000026602

We have received your document for MOSES ENTERPRISES, INC. and your check(s) totaling \$78.75. However, the enclosed document has not been filed and is being returned for the following correction(s):

Section 607.1502(4), Florida Statutes, requires this office to collect a \$500 penalty fee for each year this entity transacted business in Florida prior to qualification and the appropriate charter tax and annual report fees that would have been due this office had the corporation qualified the year it began operations in this state. Please complete the enclosed form INHSE37 and contact this office for the charter tax due. The amount entitled this office in annual report fees and penalty fees is \$7,861.25.

Enclosed please find a copy of section 607.1501 or 617.1501, Florida Statutes, which lists those activities that do not constitute transacting business or conducting affairs in this state. If after reviewing this section you determine erroneous information was inserted on the application, a sworn affidavit containing the following information must be submitted: 1.) a statement indicating erroneous information was listed on the application; and 2.) the correct date the corporation began transacting business or conducting its affairs in Florida prior to the year the application was submitted did not constitute transacting business or conducting affairs pursuant to section 607.1501 or 617.1501, Florida Statutes.

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 (904) 487-6958.

Lee Rivers
Document Examiner

Letter Number: 794A00053015

MARCUS & SHAPIRA

ONE OXFORD CENTRE, 15TH FLOOR
401 GRANT STREET
PITTSBURGH, PENNSYLVANIA 15219-6401
(412) 471-1490
FAX (412) 391-8758

BERNARD D. MARCUS
DANIEL H. SHAPIRA
GEORGE F. SHAPIRA
ROBERT L. ALLMAN, II
ESTHER F. COMAY
SUSAN GORDON ELYON
DARLENE M. KATZAK
GLENN M. KUCZAK
RILEY HILLER TUNG
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SCOTT D. LIVINGSTON
ROBERT M. BARNES
STEPHEN S. ZUPROW
DAVID B. ROSES
LOWE E. McMASTER
MELODY A. POLLOCK
JAMES E. ROSENBERG
AMY M. GOTTLIEB

JOHN M. BURKOW

JANE CAMPBELL MORTARTY

Direct Dial: (412) 338-5214

PER DAVID MANN

January 30, 1995

FEDERAL EXPRESS

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

Attn: Lee Rivers

Re: Moses Enterprises, Inc.
Ref. Number: W94000026602

Dear Sir:

I am writing you on behalf of my client, Moses Enterprises, Inc., an Ohio corporation. On December 8, 1994, Moses Enterprises, Inc. applied for authorization to do business in Florida. However, we were informed on December 14, 1994 by means of the enclosed letter, that pursuant to § 607.1502(4), Florida Statutes, Moses Enterprises owed over \$7,000.00 in fees for the years between 1980 and 1994. Therefore, our application was not filed.

Section 607.1501(3) states that the list of examples which do not constitute doing business in Florida is not exhaustive, indicating that other relationships would also be excepted from the need to register. We believe that Moses Enterprises qualifies for an exception for the following reasons.

Moses Enterprises was incorporated on August 7, 1980. Soon thereafter it obtained a 7.5% interest in a general partnership, Fun-N-Games Associates. The Edward J. DeBartolo Corporation owns the other 92.5%. Fun-N-Games operates a number of pinball and video-type amusement parlors in Florida. Since its inception, Fun-N-Games has been duly registered to do business in Florida. Furthermore, the DeBartolo Corp. has also been qualified to do business. During a recent routine lease negotiation, it was discovered that Florida had no record of Moses Enterprises in relation to the Fun-N-Games business.

*Accept for filing.
Moses Enterprises was not
doing signif. business in Fla
and prob had the defects
statute of. limited partners*

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DIVISION OF CORPORATIONS
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MARCUS & SHAPIRA

Secretary of State
January 30, 1995
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Moses Enterprises does not manage nor participate in the management of Fun-N-Games. All business activities such as bookkeeping, the decision to open and close stores and operations are handled exclusively by DeBartolo Corporation. Besides its small interest in Fun-N-Games, Moses Enterprises does not have any business property in or carry on any activities in Florida.

In its form and operation, Moses Enterprises's interest in Fun-N-Games is more similar to that of a limited partner than a general partner. Limited partners are not considered to be "doing business" in Florida. § 607.1501(2)(1).

Moses Enterprises had never been informed that every partner, in addition to the partnership, had to be qualified to do business in Florida. When Fun-N-Games registered its fictitious name, only one partner's name was required of record. Furthermore, the State only recently brought this to our attention despite the fact that Fun-N-Games has conducted business in Florida for years. Since the DeBartolo Corp. manages and controls Fun-N-Games and always has been qualified in Florida, we do not believe it is appropriate to penalize Moses Enterprises for its inadvertent failure to become authorized to conduct business in Florida.

As per your request, we have enclosed an affirmation relating to the statements in this letter within 60 days of receiving your letter. (California, where Mr. Moses is located, permits the submission of an affirmation subject to the penalty for perjury in place of an affidavit). Your letter also notes that the application was being returned - we did not, however, receive it in your letter so I presume it is still in your possession.

We request that Moses Enterprises either be excepted from the need to register to do business in Florida or that the application be accepted prospectively with a waiver of penalties.

We are eager to get this matter resolved. Please contact me at your first convenience.

Very truly yours,


Darlene M. Nowak

DMN:emh
Enclosure

AFFIRMATION OF WILLIAM D. MOSES, JR.
TO FLA. STAT. § 607.1501 UNDER PENALTY
OF PERJURY UNDER CAL.CIV.PRO. CODE § 2015.5

Dated at Ojai, County of Ventura, State of California,
January 26, 1995.

I, William D. Moses, Jr., certify under penalty for perjury
under the laws of the State of California, Cal. Civ. Pro. Code
§ 2015.5, that the following is true and correct:

1. I am the President of Moses Enterprises, Inc.
2. Moses Enterprises was incorporated on August 7, 1980
and shortly thereafter obtained a small partnership interest in
Fun-N-Games, a general partnership.
3. Moses Enterprises owns a 7.5% interest in Fun-N-Games.
DeBartolo Corporation, an Ohio corporation qualified to do
business in Florida, owns 92.5%.
4. Fun-N-Games is in the business of operating amusement
machines in various shopping malls in Florida. Fun-N-Games is
managed and operated by DeBartolo Corporation. Moses Enterprises
has never participated in the day to day business activities of
Fun-N-Games. It does not participate in the decision to do
business in any particular state. All activities, including the
bookkeeping and major business decisions of Fun-N-Games
(including the decisions to open or close operations and what
locations to operate in), are handled by DeBartolo Corporation.
5. Moses Enterprises is an 'S' corporation and the
stockholder, the Estate of William D. Moses as stockholder, pays
state taxes on income earned in Florida according to the rules
for taxation of such income.

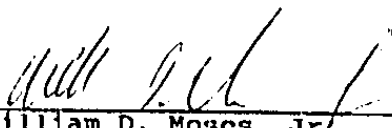
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DIVISION OF INVESTIGATION
SECRETARY OF STATE

6. At no time prior to 1994 did the State of Florida notify Moses Enterprises that it was required to register to do business in Florida. DeBartolo corporation has been duly registered to do business and in fact is the party that actively operates the business of Fun-N-Games in Florida.

7. Other than its small interest in Fun-N-Games, Moses Enterprises has no other relationship with the State of Florida.

8. Moses Enterprises' minority interest in Fun-N-Games and its lack of authority to operate or manage the business makes its position more analogous to a limited partner than a general partner in Fun-N-Games for "doing business" purposes.

FURTHER, DEPONENT SAYETH NAUGHT



William D. Moses, Jr.

**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. Moses Enterprises, Inc.
(Name of corporation: the word "INCORPORATED," "COMPANY," or "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. Ohio
(State or country under the law of which it is incorporated)

3. August 7, 1980 4. Continual
(Date of Incorporation) (Duration)

5. 34-1316923
(Federal Employer Identification number, if applicable)

6. August 7, 1980
(Date first transacted business in Florida. See sections 607.1501, 607.1502, and 817.155, F.S.)

7. 4361 Pebble Beach Road, Canfield, OH 44406
(Current mailing address)

8. Own and operate game and amusement centers and other lawful business
(Corporate purpose and nature of business in which it is engaged in Florida)

9. Names and addresses of officers and or directors:

A. Directors:

Chairman: William D. Moses, Jr.
Address: 1330 Foothill Road
Ojai, CA 93023

Vice Chairman: None
Address: _____

Director: None
Address: _____

Director: None
Address: _____

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DIVISION OF
CORPORATIONS
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B. Officers:

President: William D. Moses, Jr.
Address: 1330 Foothill Road
Ojai, CA 93023

Vice President: Mary J. Moses
Address: 4361 Pebble Beach Road
Canfield, OH 44406

Secretary/Treasurer: Milene Moses
Address: 4361 Pebble Beach Road
Canfield, OH 44406

Asst. Treasurer: Thomas F. Rossetti
Address: 9670 Moonlit Court
Naples, FL 33942

(If needed, you may attach an addendum to the application listing additional officers and/or directors.) Asst. Secretary: Marc S. Stein

20 Federal Plaza West, Suite 600
Youngstown, OH 44503

10. Name and Street address of Florida registered agent:

Name: Thomas F. Rossetti
Office Address: 9670 Moonlit Court
Naples, _____, Florida 33942
Zip Code

11. 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: X *Thomas F. Rossetti*
Thomas F. Rossetti

12. 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.

13. X *Thomas F. Rossetti*
(Signature of Chairman, Vice Chairman, or any officer listed in number 9 of the application)

14. Thomas F. Rossetti, Asst. Treasurer
(Name and capacity of person signing application)

UNITED STATES OF AMERICA,
STATE OF OHIO,
OFFICE OF THE SECRETARY OF STATE.

}

I, Bob Taft, do hereby certify that I am the duly elected, qualified and present acting Secretary of State for the State of Ohio, and as such have custody of the records of Ohio and Foreign corporations and Miscellaneous filings: that said records show MOSES ENTERPRISES, INC., an Ohio corporation, Charter No. 558969, having its principal location in Boardman Township, County of Mahoning, was incorporated on August 7, 1980 and is currently in GOOD STANDING upon the records of this office.

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SECRETARY OF STATE
DIVISION OF CORPORATIONS



WITNESS my hand and official
seal at Columbus, Ohio this
7th day of December, 1994

Bob Taft

Bob Taft
Secretary of State