F95000001934

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June 25, 1998

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Amendment Section
Division of Corporations
PO Box 6327
Tallahassee, FL 32314

RE: Fleming Acquisition Corp. (F95000001934) - Name Change

Gentlemen:

In connection with the above-referenced Corporation, enclosed please find an Application by Foreign Profit Corporation to File Amendment to Application for Authorization to Transact Business in Florida. In support of that Application, we enclose a Restated Certificate of Incorporation from the Delaware Secretary of State dated June 19, 1998, and a check in the amount of $35.00 for the filing fee.

Should you have any questions or need anything further, you may reach me at the above address and telephone number.

Very truly yours,

Angela K. Garrett

Angela K. Garrett

FILED
98 JUN 29 AM 8:12
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

AKG:lb
enclosures
cc: John Ryan (w/enc.)
Gene Petersen (w/out enc.)
Charles Young (w/out enc.)

P-99257

JUL 1 0 1998

PROFIT CORPORATION
APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA
(Pursuant to s. 607.1504, F.S.)

FILED
98 JUN 29 AM 8: 12
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

SECTION I
(1-3 MUST BE COMPLETED)

1. Fleming Acquisition Corp.
Name of corporation as it appears on the records of the Department of State.

2. Delaware
Incorporated under laws of

3. 4/20/95
Date authorized to do business in Florida

SECTION II
(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? 6/26/95

5. Fleming Packaging Corporation
Name of corporation after the amendment, adding suffix "corporation" or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation. The name cannot contain the word "company" or its abbreviation "Co."

6. If the amendment changes the period of duration, indicate new period of duration.

N/A
New Duration

7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

N/A
New Jurisdiction

John F Ryan
Signature

6/24/98
Date

John F. Ryan
Typed or printed name

Assistant Treasurer
Title

State of Delaware

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "FLEMING PACKAGING CORPORATION", FILED IN THIS OFFICE ON THE TWENTY-SIXTH DAY OF JUNE, A.D. 1995, AT 9 O'CLOCK A.M.

Edward J. Freel, Secretary of State

2487463 8100

981238025

AUTHENTICATION: 9149738

DATE: 06-19-98

DIVISION OF CORPORATIONS
FILED 09:00 AM 06/26/1995
950142693 - 2487463

RESTATED CERTIFICATE OF INCORPORATION
OF

FLEMING PACKAGING CORPORATION, a corporation organized and existing under the General Corporation Law of the State of Delaware, hereby certifies as follows:

1. The name of the corporation is Fleming Packaging Corporation and the name under which the corporation was originally incorporated is Fleming Acquisition Corp. The date of filing of its original Certificate of Incorporation with the Secretary of State was March 8, 1995.

2. This Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Certificate of Incorporation of this corporation as heretofore amended or supplemented and there is no discrepancy between those provisions and the provisions of this Restated Certificate of Incorporation.

3. The text of the Certificate of Incorporation as amended or supplemented heretofore is hereby restated without further amendments or changes to read as herein set forth in full:

ARTICLE I

The name of the Corporation is Fleming Packaging Corporation.

ARTICLE II

The Corporation's registered office in the State of Delaware is at Corporation Trust Center, 1209 Orange Street in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The nature of the business of the Corporation and its purpose is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE IV

The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 200,000 shares. The classes and aggregate number of shares of stock of each class which the Corporation shall have authority to issue are as follows:

1. 100,000 shares of class A common stock, par value $0.01 per share ("Class A Stock").

2. 100,000 shares of class B common stock, par value $0.01 per share ("Class B Stock").

Except as otherwise expressly provided in this Certificate of Incorporation or as otherwise required by applicable law, all issued and outstanding shares of Class A Stock and Class B Stock shall be identical in all respects and shall entitle the holders thereof to the same rights, preferences and privileges, subject to the same qualifications, limitations and restrictions, as set forth herein.

Except as otherwise expressly provided in this Certificate of Incorporation or as otherwise required by applicable law, with respect to all matters upon which stockholders are entitled to vote, the holders of the outstanding shares of Class A Stock shall be entitled to vote and shall be entitled to cast thereon one vote in person or by proxy for each share of Class A Stock standing in his, her or its name. Except as otherwise expressly provided in this Certificate of Incorporation or as otherwise required by law, the holders of outstanding shares of Class B Stock shall have no right to vote on matters upon which stockholders are entitled to vote; provided that the holders of Class B Stock shall have the right to vote as a separate class on (i) any merger or consolidation of the Corporation with or into another entity or entities or any recapitalization or reorganization, effective after June 1, 1995, in which shares of Class B

Stock would receive or be exchanged for consideration different on a per share basis from consideration received with respect to or in exchange for the shares of Class A Stock or would otherwise be treated differently from shares of Class A Stock in connection with such transaction other than with respect to voting rights, and (ii) any amendment to Article IV of the Corporation's Certificate of Incorporation.

As and when dividends are declared or paid with respect to shares of common stock, whether in cash, property or securities of the Corporation, the holders of Class A Stock and the holders of Class B Stock shall be entitled to receive such dividends pro rata at the same rate per share of each class of common stock; provided that (i) if dividends are declared or paid in shares of common stock, the dividends payable to the holders of Class A Stock shall be payable in shares of Class A Stock and the dividends payable to the holders of Class B Stock shall be payable in shares of Class B Stock, and (ii) if the dividends consist of other voting securities of the Corporation, the Corporation shall make available to each holder of Class B Stock, at such holder's request, dividends consisting of non-voting securities (except as otherwise required by law) of the Corporation which are otherwise identical to the voting securities and which are convertible into such voting securities on the same terms as the Class B Stock are convertible into the Class A Stock.

The holders of the Class A Stock and the holders of the Class B Stock shall be entitled to participate pro rata at the same rate per share in all distributions to the holders of common stock in any liquidation, dissolution or winding up of the Corporation.

Each holder of Class A Stock shall be entitled at any time, if such holder has or is reasonably expected to have a Regulatory Problem, as defined herein, to convert any or all of the shares of such holder's Class A Stock into an equal number of shares of Class B Stock. For purposes of this paragraph, a holder shall be deemed to have a "Regulatory Problem" when such holder or such holder's affiliates would own, control or have power over a greater quantity of securities of any kind issued by the Corporation than are permitted under any applicable requirement of any governmental authority, or not be able to hold an investment or provide financing to the Corporation in compliance with any applicable requirement of any governmental authority.

In connection with the occurrence or the expected occurrence of any Conversion Event, as defined herein, each holder of Class B Stock shall be entitled to convert into an equal number of shares of Class A Stock any or all of the shares of such holder's Class B Stock being (or expected to be) distributed, disposed of or sold in connection with such Conversion Event.

For purposes of converting Class B Stock, a "Conversion Event" shall mean (a) any public offering or public sale of securities of the Corporation (including a public offering registered under the Securities Act of 1933 and a public sale pursuant to Rule 144 of the Securities and Exchange Commission or any similar rule then in force, or a distribution under prospectus pursuant to the Ontario Securities Act in the Province of Ontario or similar securities laws in the other provinces of Canada), (b) any sale of securities of the Corporation to a person or group of persons (within the meaning of the Securities Exchange Act of 1934, as amended (the "1934 Act")) if, after such sale, such person or group of persons in the aggregate would own or control securities which possess in the aggregate the ordinary voting power to elect a majority of the Corporation's directors (provided that such sale has been approved by the Corporation's Board of Directors or a committee thereof), (c) any sale of securities of the Corporation to a person or group of persons (within the meaning of the 1934 Act) if, after such sale, such person or group of persons in the aggregate would own or control securities of the Corporation (excluding any Class B Stock being converted and disposed of in connection with such Conversion Event) which possess in the aggregate the ordinary voting power to elect a majority of the Corporation's directors, (d) any sale of securities of the Corporation to a person or group of persons (within the meaning of the 1934 Act) if, after such sale, such person or group of persons would not, in the aggregate, own, control or have the right to acquire more than two percent (2%) of the outstanding securities of any class of voting securities of the Corporation, and (e) a merger, consolidation or similar transaction involving the Corporation, effective after June 1, 1995, if, after such transaction, a person or group of persons (within the meaning of the 1934 Act) in the aggregate would own or control securities which possess in the aggregate the ordinary voting power to elect a majority of the surviving corporation's directors (provided that the transaction has been approved by the Corporation's Board of Directors or a committee thereof). For purpose of this paragraph, "person" shall include any natural person and any corporation, partnership, joint venture, trust, unincorporated organization and any other entity or organization.

Each holder of Class B Stock shall be entitled to convert shares of Class B Stock in connection with any Conversion Event if such holder reasonably believes that such Conversion Event shall be consummated and such holder presents to the Corporation, in sufficient time prior to the Conversion Event to enable the Corporation to comply with its obligations hereunder without unusual expense or effort, a written request for conversion stating such holder's reasonable belief that a Conversion Event shall occur. The holder's written request to the Corporation shall be conclusive and shall obligate the Corporation to effect such conversion in a timely manner so as to enable each such holder to participate in such Conversion Event provided that such holder complies with its obligations set forth herein. The Corporation shall not cancel the shares of Class B Stock so converted before the tenth day following such Conversion Event and shall reserve such shares until such tenth day for reissuance in compliance with the next sentence. If any shares of Class B Stock are converted into shares of Class A Stock in connection with a Conversion Event and such shares of Class A Stock are not actually distributed, disposed of or sold pursuant to such Conversion Event, such shares of Class A Stock shall be promptly converted back into the same number of shares of Class B Stock.

The following terms and conditions shall apply to the conversion of shares of common stock of one class into shares of common stock of the other class:

a. A number of shares of Class A Stock and Class B Stock sufficient to provide, upon the basis hereinbefore set forth, for the conversion of all shares of Class A Stock and Class B Stock outstanding shall at all times be reserved by the Corporation solely for the exercise of the conversion rights of the holders of shares of Class A Stock and Class B Stock.

b. Before any holder of shares of common stock of one class shall be entitled to convert the same into shares of common stock of the other class, he, she or it shall surrender his, her or its certificate or certificates for such shares to the Corporation at the offices of the Corporation, or at such other place or places, if any, as the Board of Directors may determine, duly endorsed or accompanied if appropriate by duly executed instruments of transfer and shall give written notice to the Corporation at said office or place that he, she or it elects to convert the shares of common stock represented by the certificate or certificates so surrendered and the reason(s) for such conversion.

c. Subject to the limitations set forth herein, the Corporation shall as soon as practicable after such deposit of certificates of shares to be converted, accompanied by the written notice above prescribed, issue and deliver, at the office or place at which such certificate or certificates were deposited, to the person for whose account Class A Stock or Class B Stock was so surrendered, certificates for the number of full shares of Class B Stock or Class A Stock, respectively, to which he, she or it shall be entitled.

d. Unless otherwise provided in connection with a Conversion Event, each conversion shall be deemed to have been effected as of the close of business on the date on which such certificate or certificates have been surrendered and such notice has been received, and at such time the rights of the holder of the converted Class A Stock or Class B Stock, as the case may be, shall cease and the person or persons in whose name or names the certificate or certificates for shares of Class A Stock or Class B Stock are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the shares of Class A Stock or Class B Stock represented thereby.

e. Subject to the provisions of this Article IV, with respect to the shares of Class A Stock which are converted into Class B Stock such shares of Class A Stock shall resume the status of authorized but unissued shares of Class A Stock as of the conversion. Subject to the provisions of this Article IV, with respect to the shares of Class B Stock which are converted into Class A Stock such shares of Class B Stock shall resume the status of authorized but unissued shares of Class B Stock as of the conversion.

f. The issuance of certificates for Class A Stock upon conversion of Class B Stock, and Class B Stock upon conversion of Class A Stock, shall be made without charge to the holders of such shares for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of Class A Stock or Class B Stock, as the case may be.

g. So long as the holder of the shares to be converted complies with its obligations herein, the Corporation shall not close its books against the transfer of shares of common stock in any manner which would interfere with the timely conversion of any shares of common stock. The Corporation shall assist and cooperate with any holder of common stock required to make any governmental filings or obtain any governmental approval prior to or in connection with any conversion of common stock hereunder (including, without limitation, making any filings required to be made by the Corporation).

h. If the Corporation in any manner subdivides or combines the outstanding shares of one class of common stock, the outstanding shares of the other class of common stock shall be proportionately subdivided or combined in a similar manner.

i. No amendment or waiver of any provision regarding the conversion procedure shall be effective without the prior approval of the holders of a majority of the then outstanding Class B Stock voting as a separate class.

ARTICLE V

In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors of the Corporation is expressly authorized to make, alter and repeal the bylaws of the Corporation, subject to the power of the stockholders of the Corporation to alter or repeal any bylaw whether adopted by them or otherwise.

ARTICLE VI

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

ARTICLE VII

The Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provisions of this Certificate of Incorporation authorized by the laws of the State of Delaware at the time in force, in the manner now or hereafter prescribed by law.

4. This Restated Certificate of Incorporation was duly adopted by unanimous consent of the Board of Directors in accordance with the applicable provisions of Sections 141 and 245 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said Fleming Packaging Corporation has caused this Certificate to be signed by William J. Mannlein, its President as of April 27, 1995.

FLEMING PACKAGING CORPORATION

Wm J Mannlein

William J. Mannlein
President