

F99000001791



THE UNITED STATES
CORPORATION
COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 819635 4310694

AUTHORIZATION : Patricia Pizot

COST LIMIT : \$ 78.75

ORDER DATE : September 1, 2000

ORDER TIME : 4:13 PM

ORDER NO. : 819635-015

CUSTOMER NO: 4310694

0000003382710--6

CUSTOMER: Ms. Anna Salgado
Broad And Cassel
Ste 3000, Miami Center
201 South Biscayne Boulevard
Miami, FL 33131

ARTICLES OF MERGER

CYBEAR ACQUISITION CORP.

INTO

CYBEAR INC.

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX _____ CERTIFIED COPY
_____ PLAIN STAMPED COPY

CONTACT PERSON: CARINA DUNLAP

EXAMINER'S INITIALS:

FILED
00 SEP -5 PM 4:52
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

RECEIVED
00 SEP -5 PM 4:46
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

G. COULLETTE SEP - 6 2000

ARTICLES OF MERGER
Merger Sheet

MERGING:

CYBEAR ACQUISITION CORP., a Florida corporation, P00000029849

INTO

CYBEAR INC., a Delaware entity, F99000001791

File date: September 5, 2000

Corporate Specialist: Cheryl Coulliette

Account number: 072100000032 Amount charged: 78.75

**ARTICLES OF MERGER
OF
CYBEAR ACQUISITION CORP.
AND
CYBEAR INC.**

FILED
00 SEP -5 PM 4:52
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607 of the Florida Business Corporation Act ("FBCA"), the undersigned corporations adopt the following Articles of Merger:

1. The names of the merging corporations are CYBEAR ACQUISITION CORP., a business corporation organized under the laws of the State of Florida, (the "Disappearing Corporation"), and CYBEAR INC., a business corporation organized under the laws of the State of Delaware, the surviving corporation (the "Surviving Corporation").
2. The Surviving Corporation will continue its existence as the surviving corporation under its current name pursuant to the provisions of the laws of the State of Delaware.
3. The merger shall be effective on the date of filing of these Articles of Merger and the Certificate of Merger with the Delaware Secretary of State.
4. The principal office of the Surviving Corporation is 5000 Blue Lake Drive, Suite 200, Boca Raton, Florida 33431.
5. The Surviving Corporation hereby appoints the Florida Secretary of State as its agent for service of process in a proceeding to enforce any obligation on the rights of dissenting shareholders of the Disappearing Corporation to the merger.
6. The Surviving Corporation agrees to pay the dissenting shareholders of the Disappearing Corporation the amount, if any, to which they are entitled under §607.1302 of the Florida Statutes.
7. The Plan of Merger was approved and adopted by the sole director and shareholder of the Disappearing Corporation by written consent dated as of March 23, 2000 and by a vote of the Board of Directors on March 22, 2000 of the Surviving Corporation and by an affirmative vote of a majority of stockholders of the Surviving Corporation at a special meeting duly called for such purpose, on September 5, 2000. A copy of the Plan of Merger is attached hereto as Exhibit "A."

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the duly authorized officers of the constituent corporations have executed these Articles of Merger as of the 5th day of September, 2000.

"DISAPPEARING CORPORATION"

CYBEAR ACQUISITION CORP., a Florida corporation

By: 

Scott Lodin, Esq., Secretary

THIS DOCUMENT PREPARED BY:
DALE S. BERGMAN, P.A.
Florida Bar No. 0558000
Broad and Cassel
201 S. Biscayne Boulevard, Suite 3000
Miami, Florida 33131
(305) 373-9400

"SURVIVING CORPORATION"

CYBEAR INC., a Delaware corporation

By: 

Scott Lodin, Esq., Secretary

EXHIBIT "A"

**PLAN OF MERGER
OF
CYBEAR INC.
AND
CYBEAR ACQUISITION CORP.**

THIS PLAN OF MERGER (the "Plan") is entered into as of this 23rd day of March, 2000, by and between CYBEAR ACQUISITION CORP., a Florida corporation (the "Disappearing Corporation"), and CYBEAR INC., a Delaware corporation (the "Surviving Corporation"), as approved by the Board of Directors and shareholders of said corporations:

R E C I T A L S:

- A. The Surviving Corporation is a corporation duly organized and existing under the laws of the State of Delaware.
- B. The Disappearing Corporation is a corporation duly organized and existing under the laws of the State of Florida.
- C. The directors of the Disappearing Corporation and the Surviving Corporation believe that the merger of the Disappearing Corporation into the Surviving Corporation would be advantageous and beneficial to the respective Stockholders of those corporations.
- D. The Disappearing Corporation and the Surviving Corporation have agreed that the Disappearing Corporation shall merge into the Surviving Corporation upon the terms and conditions and in the manner set forth in this Plan and in accordance with the applicable laws of the State of Florida and the State of Delaware.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, provisions, grants, guarantees and representations contained in this Plan and in order to consummate the transaction described above, the Disappearing Corporation and the Surviving Corporation, the constituent corporations to this Plan, agree as follows:

1. **Merger.** The Disappearing Corporation shall be merged with and into the Surviving Corporation.
2. **Filing and Effective Time.** The Surviving Corporation shall file a Certificate of Merger ("Certificate of Merger") pursuant to Section 252 of the Delaware General Corporation Law ("DGCL"). The Disappearing Corporation shall file Articles of Merger ("Articles of Merger") with the Florida Department of State pursuant to Section 607 of the Florida Business Corporation Act ("FBCA"). The effective date of the merger (the "Effective Date") shall be upon the filing of the Certificate of Merger and Articles of Merger.
3. **Surviving Corporation.** The Surviving Corporation shall continue its existence under its current name pursuant to the provisions of the DGCL. All the property, rights, privileges, powers and franchises of Surviving Corporation and Disappearing Corporation shall

vest in Surviving Corporation, and all debts, liabilities and duties of Surviving Corporation and Disappearing Corporation shall become the debts, liabilities and duties of the Surviving Corporation.

4. **Disappearing Corporation.** The separate existence of the Disappearing Corporation shall cease upon the Effective Date of the merger in accordance with the provisions of the DGCL.

5. **Terms of the Merger.** On the Effective Date, each share of common stock of the Surviving Corporation will be cancelled and extinguished and will be converted automatically into the right to receive one share of Andrx Corporation, a Delaware corporation ("Andrx Corporation") – Cybear Group Common Stock. The Surviving Corporation shall become a wholly owned, direct subsidiary of Andrx Corporation. Each share of the Disappearing Corporation shall cease to exist and be cancelled.

6. **Articles of Incorporation.** The Certificate of Incorporation of the Surviving Corporation shall continue to be the Certificate of Incorporation of the Surviving Corporation until changed, altered, or amended as therein provided and in the manner prescribed by the provisions of the DGCL (the "New Certificate").

7. **Bylaws.** The Bylaws of the Surviving Corporation shall continue to be the Bylaws of the Surviving Corporation until changed, altered, or amended as therein provided and in the manner prescribed by the DGCL (the "New Bylaws").

8. **Directors and Officers.** The directors and officers of the Disappearing Corporation immediately prior to the Effective Date shall be the officers and directors of the Surviving Corporation as of the Effective Date and until their successors are duly appointed or elected in accordance with applicable law, or until their earlier death, resignation or removal in accordance with the New Certificate and the New Bylaws.

9. **Approval.** The agreement contemplated by this Plan has previously been submitted to and approved by the Board of Directors and stockholders of the Disappearing Corporation and the Surviving Corporation. Subsequent to the execution of this Plan by the appropriate officers of the Disappearing Corporation and Surviving Corporation, the proper officers of each corporation shall, and are hereby authorized and directed to, cause to be executed and filed such documents prescribed by the laws of the State of Florida and the State of Delaware and to perform all such further acts as the same may be necessary or proper to render effective the merger contemplated by this Plan.

10. **Amendment.** This Plan may be amended with the approval of the Boards of Directors of Surviving Corporation and Disappearing Corporation at any time prior to the filing of this Plan with the Delaware Secretary of State and Florida Department of State, provided that any amendment made subsequent to the adoption of this Plan by the Stockholders of the Disappearing Corporation or the Surviving Corporation shall not (a) alter or amend any term of the New Certificate or (b) alter or amend any of the terms and conditions of this Plan if such alteration or amendment would adversely affect the holders of common stock of the Surviving Corporation or Disappearing Corporation.

11. **Governing Law.** This Plan shall be construed in accordance with and governed by the laws of the State of Delaware, without resort to choice of law principles.

12. **Further Assurances.** Each of the parties hereto shall take or cause to be taken all actions, and do or cause to be done all things, necessary, proper or advisable to effectuate the merger.

13. **Counterparts.** This Plan may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the duly authorized officers of the constituent corporations have executed this Plan as of the date first above written.

"DISAPPEARING CORPORATION"

CYBEAR ACQUISITION CORP.,
a Florida corporation

By: 

Scott Lodin, Esq., Secretary

"SURVIVING CORPORATION"

CYBEAR INC., a Delaware corporation

By: 

Scott Lodin, Esq., Secretary