

G95417

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

PUPELLO ACQUISITION, INC., a Florida corporation (Document  
#P97000081429)

INTO

JOE PUPELLO, INC., a Florida corporation, G95417

File date: September 30, 1997

Corporate Specialist: Louise Flemming-Jackson

Account number: 072100000032

Account charged: 122.50



ACCOUNT NO. : 072100000032

REFERENCE : 548062 4326591

AUTHORIZATION :

*Patricia Pigute*

COST LIMIT : \$ 122.50

ORDER DATE : September 30, 1997

ORDER TIME : 9:47 AM

ORDER NO. : 548062-005

CUSTOMER NO: 4326591

300002307773--5

CUSTOMER: Mr. Cody Waters  
Fowler White Gillen Boggs  
501 East Kennedy Boulevard  
Suite 1700  
Tampa, FL 33602

ARTICLES OF MERGER

PUPELLO ACQUISITION, INC.

INTO

JOE PUPELLO, INC.

FILED  
97 SEP 30 PM 12:38  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY

CONTACT PERSON: Stacy L Earnest

EXAMINER'S INITIALS: \_\_\_\_\_



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

October 1, 1997

CSC  
ATTN: STACY L. EARNEST

SUBJECT: JOE PUPELLO, INC.  
Ref. Number: G95417

**RESUBMIT**  
Please give original  
submission date as file date.

We have received your document for JOE PUPELLO, INC. and your check(s) totaling \$122.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

In the first paragraph on the plan of merger PUPELLO ACQUISITION, INC., is referred to as JPI ACQUISITION, INC. Please correct your document accordingly.

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) 487-6910.

Louise Flemming-Jackson  
Corporate Specialist Supervisor

Letter Number: 097A00048312

ARTICLES OF MERGER

OF

JOE PUPELLO, INC.

AND

PUPELLO ACQUISITION, INC.

FILED

97 SEP 30 PM 12:38

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

To the Secretary of State  
of the State of Florida

The following Articles of Merger are executed for the purpose of merging PUPELLO ACQUISITION, INC., a Florida corporation (the "Merged Corporation"), with and into JOE PUPELLO, INC., a Florida corporation (the "Surviving Corporation")

1. The Plan of Merger for merging the Merged Corporation into the Surviving Corporation was approved by Joint Action By Written Consent of the Board of Directors and Stockholders of the Merged Corporation on September 26, 1997; and by Joint Action By Written Consent of the Board of Directors and Stockholders of the Surviving Corporation on September 26, 1997.

2. The Plan of Merger is attached hereto as Exhibit A.

3. The effective date of the merger herein provided shall be September 30, 1997.

Executed on September 26, 1997.

JOE PUPELLO, INC.

By: 

Joseph C. Pupello, Sr.,  
President

PUPELLO ACQUISITION, INC.

By: 

Joseph C. Pupello, Sr.,  
President

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 26<sup>th</sup>  
day of September, 1997, by Joseph C. Pupello, Sr., President of JOE  
PUPELLO, INC., a Florida corporation, who is personally known to me  
or who has produced personally known as identification.

Joseph C. Pupello Sr.

Print Name

Notary Public

My Commission Expires:

Peter Pupello

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH



PETER PUPELLO  
COMMISSION # CC 420591  
EXPIRES NOV 14, 1998  
BONDED THRU  
ATLANTIC BONDING CO., INC.

The foregoing instrument was acknowledged before me this 26<sup>th</sup>  
day of September, 1997, by Joseph C. Pupello, Sr., President and  
Secretary, respectively of PUPELLO ACQUISITION, INC., a Florida  
corporation, who is personally known to me or who has produced —  
personally known as identification.

Joseph C. Pupello Sr.

Print Name

Notary Public

My Commission Expires:

Peter Pupello

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PETER PUPELLO  
COMMISSION # CC 420591  
EXPIRES NOV 14, 1998  
BONDED THRU  
ATLANTIC BONDING CO., INC.

**PLAN OF MERGER**

**by and among**

**DALE MABRY INVESTMENT COMPANY,**

**JOE PUPELLO, INC. and**

**PUPELLO ACQUISITION, INC.**

*26* THIS PLAN OF MERGER ("Plan") is entered into on September 26, 1997, among DALE MABRY INVESTMENT COMPANY, a Florida corporation ("DMI"), JOE PUPELLO, INC., a Florida Corporation ("JPI") and PUPELLO ACQUISITION, INC., a Florida corporation and a wholly-owned subsidiary of DMI ("PAI").

**W I T N E S S E T H:**

WHEREAS, DMI, by its Certificate of Incorporation, which was filed in the office of the Secretary of State of Florida on June 25, 1954, as amended, has an authorized capital stock of 12,000 shares of .01 par value voting common capital stock and 1,188,000 shares of .01 par value non-voting common capital stock, of which 7,481 shares of voting and 740,679 shares of non-voting are issued and outstanding on the date of the execution hereof;

WHEREAS, JPI, by its Certificate of Incorporation, which was filed in the office of the Secretary of State of Florida on April 10, 1984, as amended, has an authorized capital stock of 7,000 shares of \$1.00 par value common capital stock, of which 100 shares are issued and outstanding on the date of the execution hereof;

WHEREAS, PAI, by its Certificate of Incorporation, which was filed in the office of the Secretary of State of Florida on September 19, 1997, has an authorized capital stock of 1,000 shares of \$.01 par value common capital stock, of which 100 shares are issued and outstanding on the date of the execution hereof;

WHEREAS, the Board of Directors and all shareholders of the parties hereto have duly approved and authorized the merger of PAI with and into JPI (the "Merger") in a reorganization pursuant to Section 368(a)(1)(A) of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, the Board of Directors and all shareholders of the parties hereto have duly approved and authorized this Plan and the execution and filing of same with the Secretary of State of Florida in the manner prescribed by the laws of the State of Florida; and

WHEREAS, the stockholders of JPI will receive capital stock of DMI in exchange for their capital stock of JPI.

NOW, THEREFORE, in consideration of the premises the Merger of PAI into JPI shall be accomplished as follows:

#### **ARTICLE I THE MERGER**

(a) Upon the terms and subject to the conditions of this Plan, on the Effective Date (as hereinafter defined) PAI shall be merged with and into JPI in accordance with the provisions of the Florida Business Corporation Act § 607.1101 and the separate existence of PAI shall thereupon cease. JPI shall be the surviving corporation in the Merger and shall continue to be governed under the laws of the State of Florida and the name of JPI shall remain "Joe Pupello, Inc." Without limiting the generality of the foregoing, and subject thereto, at the Effective Date of the Merger:

(1) the Surviving Corporation shall possess all assets and property of every description, and every interest therein, wherever located, and the rights, privileges, immunities, powers, franchises and authority, of a public as well as of a private nature, of JPI and PAI;

(2) all obligations belonging to or due each of JPI and PAI shall be vested in, and become the obligations of JPI without further act or deed;

(3) title to any real estate or any interest therein vested in JPI or PAI shall not revert or in any way be impaired by reason of the Merger;

(4) all rights of creditors and all liens upon any property of JPI or PAI shall be preserved unimpaired; and

(5) JPI shall be liable for all of the obligations of JPI and PAI as may be prosecuted to judgment with right of appeal, as if the Merger had not taken place.

(b) The Merger shall become effective on September 30, 1997 (the "Effective Date").

#### **ARTICLE II THE SURVIVING CORPORATION**

(a) The Articles of Incorporation of JPI as in effect immediately prior to the Effective Date shall be the Articles of Incorporation of the JPI after the Effective Date, until duly amended in accordance with the terms thereof and applicable law.

(b) The By-laws of JPI in effect immediately prior to the Effective Date shall be the By-laws of JPI after the Effective Date, and thereafter may be amended in accordance with their terms and as provided in the Articles of Incorporation of JPI and applicable law.

(c) The directors of JPI at the Effective Date shall, from and after the Effective Date, be the directors of JPI until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with JPI's Articles of Incorporation and By-laws.

(d) The officers of JPI at the Effective Date shall, from and after the Effective Date, be the officers of JPI until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with JPI's Articles of Incorporation and By-laws.

(e) If at any time after the Effective Date, DMI shall consider that any further deeds, assignments, conveyances, agreements, documents, instruments or assurances in law or any other things are necessary or desirable to vest, perfect, confirm or record in JPI the title to any property, rights, privileges, powers and franchises of JPI to be acquired by JPI by reason of, or as a result of, the Merger, or otherwise to carry out the provisions of this Plan, the Board of Directors and officers of JPI last in office shall, to the extent then permitted so to do by applicable law, execute and deliver upon DMI's reasonable request, any and all deeds, assignments, conveyances, agreements, documents, instruments or assurances in law, and do all other things necessary or proper to vest, perfect, confirm or record title to such property, rights, privileges, powers and franchises in JPI, and otherwise carry out provisions of this Plan.

### ARTICLE III CONVERSION OF SHARES

(a) On the Effective Date, by virtue of the Merger and without any action on the part of any holder of any capital stock of the JPI:

(1) Each share of common stock of PAI issued and outstanding on the Effective Date shall be converted, without any further action, into and be one share of common stock of JPI.

(2) Each share of common stock of JPI issued and outstanding on the Effective Date, subject to the terms and conditions of this Plan, shall be converted, without any further action, into the right to receive, and become exchangeable for, 32.73 shares of fully paid and non-assessable voting common stock of DMI and 3,240.10 shares of fully paid and non-assessable non-voting stock of DMI.

(3) As promptly as practicable after the Effective Time, the sole stockholder of JPI shall surrender his certificates which represented his interest in the JPI prior to the Effective Date, and shall be entitled upon such surrender to receive in exchange therefor certificates



representing the number of shares of voting and non-voting common stock of DMI into which the common stock of JPI theretofore represented by the certificate or certificates so surrendered shall have been converted as set forth in paragraph (a)(2), above. Until surrendered and exchanged, each certificate theretofore representing outstanding common stock of JPI shall be deemed for all purposes (corporate or otherwise) to represent solely the right to receive common stock of DMI as herein provided and shall not be considered to represent shares of capital stock of JPI.

(b) Each share of common stock of DMI issued and outstanding on the Effective Date shall remain issued and outstanding thereupon and shall not be converted or the terms thereof modified in the Merger.

#### **ARTICLE IV TERMS AND CONDITIONS**

The terms and conditions of this merger and the mode of carrying it into effect are as follows:

(a) The first annual meeting of the stockholders of JPI to be held after the Effective Date shall be the annual meeting provided by the bylaws of JPI.

(b) The first regular or annual meeting of the Board of Directors of JPI to be held after the Effective Date may be called or may convened in the manner provided in the bylaws of JPI.

(c) DMI shall pay all expenses incident to this merger.

(d) None of the parties hereto shall issue or sell or issue rights to subscribe to any shares of its capital stock, or shall declare any dividends on its capital stock, prior to the Effective Date.

(e) None of the parties hereto shall incur, prior to the Effective Date, any obligations not within the express contemplation of this Plan of Merger, whether by contract or otherwise, except pursuant to existing agreements and arrangements and except in the ordinary course of business, nor dispose of any material portion of its business or property.

#### **ARTICLE V APPROVAL OF MERGER**

The parties do hereby acknowledge and confirm as follows:

(a) This Plan of Merger has been duly adopted and approved by written consent dated September 26, 1997, by the Board of

Directors and the shareholders of JPI pursuant to Sections 607.0821 and 607.0704, Florida Statutes, and the undersigned officers of JPI have been authorized and directed to execute same.

(b) This Plan of Merger has been duly adopted and approved by written consent dated September 26, 1997, by the Board of Directors and the shareholders of PAI pursuant to Sections 607.0821 and 607.0704, Florida Statutes, and the undersigned officers of PAI have been authorized and directed to execute same.

(c) This Plan of Merger has been duly adopted and approved by written consent dated September 26, 1997, by the Board of Directors and the shareholders of DMI pursuant to Sections 607.0821 and 607.0704, Florida Statutes, and the undersigned officers of PAI have been authorized and directed to execute same.

IN WITNESS WHEREOF, the parties have caused this Plan to be executed by their duly authorized officers effective the day and year first above-written.

DALE MABRY INVESTMENT COMPANY

By: Joseph C. Pupello, Sr.

Joseph C. Pupello, Sr.,  
President

Attest:

Margaret L. Pupello  
Margaret L. Pupello, Secretary

"DMI"

JOE PUPELLO, INC.

By: Joseph C. Pupello, Sr.

Joseph C. Pupello, Sr.,  
President

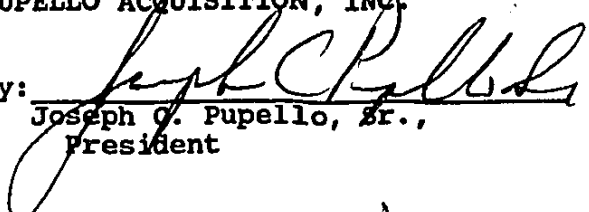
Attest:

Joseph C. Pupello, Sr.  
Joseph C. Pupello, Sr., Secretary

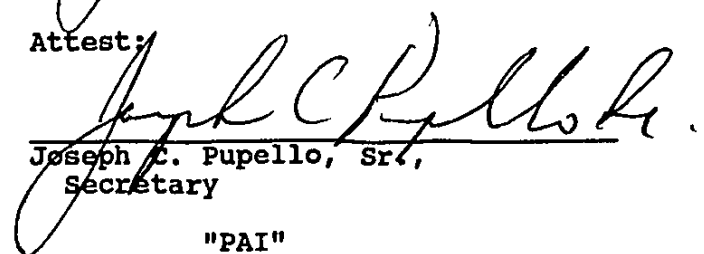
"JPI"

PUPELLO ACQUISITION, INC.

By:

  
Joseph C. Pupello, Sr.,  
President

Attest:

  
Joseph C. Pupello, Sr.,  
Secretary

"PAI"

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