

J21665

LAW OFFICE

KAZEE, KINNER & CHAFIN

290 EAST COURT STREET • P.O. Box 700
PRESTONSBURG, KENTUCKY 41653-0700
TELEPHONE 606-886-2361 • FAX 606-886-9603
(E-MAIL: dbkazee@pcc-uky.campus.mci.net)
(E-MAIL: jtchafin@eastky.com)
FEDERAL TAX ID #61-1293681

D. B. Kazee
Mitchell D. Kinner
John T. Chafin
P. Franklin Heaberlin
October 14, 1998

Florida Department of State
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

RE: Colonial Coal Company, Inc.
KKC File No.: 1006-6

Gentlemen:

Enclosed you will find an Application for Reinstatement for Colonial Coal Company, Inc. and Articles of Merger of Colonial Coal Company, Inc. (Florida corporation) with and into Colonial Coal Company, Inc. (Kentucky corporation).


Please process the Application for Reinstatement at your earliest convenience. After the corporation is reinstated, please process the Articles of Merger. As indicated on the Application for Reinstatement in Block 6, please issue and return to us a Certificate of Status after the Application for Reinstatement and Articles of Merger have been processed.

Also enclosed is a check for \$978.75 to cover the cost of processing the Application for Reinstatement (\$900), the Articles of Merger (\$70), and a Certificate of Status (\$8.75).

Thank you for your prompt attention to this matter. If there are any questions, please call us at 606-886-2361.

Sincerely yours,

KAZEE, KINNER & CHAFIN


D. B. Kazee
mlc
Enclosures (dbk\fscc.1tl)

FILED
98 OCT 26 AM 11:26
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
Robert J. Patton
*Also Admitted in WV

800002672076--7
-10/26/98--01050--001
*****978.75 *****78.75

FILED
98 OCT 26 AM 11:26
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Merger
OK
10/29

ARTICLES OF MERGER
Merger Sheet

MERGING:

COLONIAL COAL COMPANY, INC., a Florida corporation, document number
J21665

INTO

COLONIAL COAL COMPANY, INC., a Kentucky corporation not qualified in
Florida

File date: October 26, 1998

Corporate Specialist: Karen Gibson

ARTICLES OF MERGER OF
COLONIAL COAL COMPANY, INC.
(a Florida corporation)

WITH AND INTO

COLONIAL COAL COMPANY, INC.
(a Kentucky corporation)

FILED
98 OCT 26 AM 11:27
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to KRS 271B.11-050, the undersigned corporations have adopted the following Articles of Merger for the purpose of merging Colonial Coal Company, Inc. ("Colonial"), a Florida corporation, with and into Colonial Coal Company, Inc. ("Colonial Coal"), a Kentucky corporation:

1. A plan of merger was duly approved by the Directors of Colonial and Colonial Coal on June 2, 1998. A copy of such plan of merger is attached hereto marked Exhibit A, and incorporated herein by reference.

2. The sole shareholder of Colonial and Clifton & McDonald Consolidated, Inc. approved of the merger into Colonial Coal, as evidenced by the resolution attached hereto as Exhibit B.

3. The manner of the adoption of the plan of merger and the vote by which it was adopted constitute full legal compliance with the provisions of KRS 271B.11-050, and with the articles of incorporation and the bylaws of Colonial and Colonial Coal.

4. The merger is approved as of the 1st day of July, 1998 but shall be effective as of the date certified by the

Secretary of State.

COLONIAL COAL COMPANY, INC.,
a Florida corporation

BY: B. W. McDonald
B. W. McDonald, President

COLONIAL COAL COMPANY, INC.,
a Kentucky corporation

BY: B. W. McDonald
B. W. McDonald, President

STATE OF KENTUCKY

COUNTY OF JOHNSON

I, Beverly Estep, a Notary Public in and for the county and state aforesaid do hereby certify that the foregoing Articles of Merger were produced and acknowledged before me by B. W. McDonald, as President for and on behalf of Colonial Coal Company, Inc., a Florida corporation, this 2 day of June, 1998.

My commission expires: May 24, 2001.

Beverly Estep
NOTARY PUBLIC

STATE OF KENTUCKY

COUNTY OF JOHNSON

I, Beverly Estep, a Notary Public in and for the county and state aforesaid do hereby certify that the foregoing Articles of Merger were produced and acknowledged before me by B. W. McDonald, as President for and on behalf of Colonial Coal Company, Inc., a Kentucky corporation, this 2 day of June, 1998.

My commission expires: May 24, 2001.

Beverly Estep
NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

D. B. Kazee
D. B. KAZEE, ATTORNEY
KAZEE, KINNER & CHAFIN
119 EAST COURT STREET
P.O. BOX 700
PRESTONSBURG, KENTUCKY 41653

dbk\colonial.mer

A

PLAN OF MERGER OF
COLONIAL COAL COMPANY, INC.
(a Florida corporation)

WITH AND INTO
COLONIAL COAL COMPANY, INC.
(a Kentucky corporation)

THIS PLAN OF MERGER ("plan of merger"), dated as of this 2nd day of June, 1998, adopted by and between Colonial Coal Company, Inc., ("Colonial Coal"), a Kentucky corporation, having its registered office at 119 East Court Street, P.O. Box 700, Prestonsburg, Kentucky 41653 ("acquiring corporation"), and Colonial Coal Company, Inc. ("Colonial"), a Florida corporation, having its registered office in Kentucky at 119 East Court Street, Prestonsburg, Kentucky 41653 ("acquired corporation").

WITNESSETH:

WHEREAS, acquiring corporation is a corporation organized and existing under the laws of the Commonwealth of Kentucky, the authorized capital stock of which consists of one thousand (1,000) shares of common stock ("acquiring corporation common stock"), of which at the date hereof all shares are issued and outstanding; and

WHEREAS, acquired corporation is a corporation organized and existing under the laws of the state of Florida, the authorized capital stock of which consists of one thousand (1,000) shares of common stock ("acquired corporation common stock"), of which at the

date hereof all shares are issued and outstanding; and

WHEREAS, the respective boards of directors of acquiring corporation and acquired corporation deem the merger of the acquired corporation with and into acquiring corporation, under and pursuant to the terms and conditions herein set forth, desirable and in the best interests of the respective corporations and their respective shareholders and the respective boards of directors of acquiring corporation and acquired corporation have adopted resolutions approving this plan of merger and directed that this plan of merger be submitted to the respective shareholders of the companies;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements herein contained, the parties hereto do hereby agree as follows:

ARTICLE I MERGER

Subject to the terms and conditions of this plan of merger, on the effective date (as defined in Article IV), acquired corporation shall be merged with and into acquiring corporation pursuant to the provisions of, and with the effect provided in, the Kentucky Business Corporation Act (said transaction being hereinafter referred to as the "merger"). On the effective date, the separate existence of acquired corporation shall cease and

acquiring corporation, as the surviving entity, shall continue unaffected and unimpaired by the merger (acquiring corporation as existing on and after the effective date being hereinafter sometimes referred to as the "surviving corporation").

ARTICLE II ARTICLES OF INCORPORATION AND BYLAWS

The articles of incorporation and the bylaws of the acquiring corporation in effect immediately prior to the effective date shall be the articles of incorporation and the bylaws of the surviving corporation, in each case until amended in accordance with applicable law, except that Article I of the acquired corporation's articles of incorporation shall be amended to read in its entirety as follows:

"The name of the corporation is Colonial Coal Company, Inc."

ARTICLE III BOARD OF DIRECTORS

On the effective date, the board of directors of the surviving corporation shall consist of those persons serving as directors of surviving corporation immediately prior to the effective date.

ARTICLE IV
CAPITAL

The shares of capital stock of acquiring corporation issued and outstanding immediately prior to the effective date shall, on the effective date, continue to be issued and outstanding.

ARTICLE V
CONVERSION AND EXCHANGES OF SHARES;
FRACTIONAL SHARE INTERESTS

(A) On the effective date, each share of acquired corporation stock outstanding immediately prior to the effective date shall by virtue of the merger be converted into one to one shares of acquiring corporation common stock.

(B) On the effective date, all shares of acquired corporation common stock held in the treasury of acquired corporation other than in a fiduciary capacity shall be canceled and on cash, stock, or other property shall be delivered in exchange therefor.

(C) On and after the effective date, each holder of a certificate(s) theretofore representing outstanding shares of acquired corporation common stock (any such certificate being hereafter referred to as a "certificate") may surrender same to acquiring corporation or its agent for cancellation and each such

holder shall be entitled upon such surrender to receive in exchange therefor such certificate(s) representing the number of shares of acquiring corporation common stock to which such holder is entitled as provided above. Until so surrendered, each certificate shall be deemed for all purposes to evidence ownership of the number of shares of acquiring corporation common stock into which the shares represented by such certificates have been changed or converted as aforesaid.

(D) Upon the effective date, the stock transfer books of acquired corporation shall be closed and no transfer of acquired corporation common stock shall thereafter be made or recognized.

(E) No conversion under paragraph (A) of this Article V shall be made in respect of any share of acquired corporation common stock as to which an acquired corporation shareholder has elected to exercise dissenters' rights pursuant to KRS 271B.12-010 to KRS 271B.13-310 until such time as such shareholder shall have effectively lost its dissenters' rights.

ARTICLE VI EFFECTIVE DATE OF MERGER

Articles of merger evidencing the transactions contemplated herein shall be delivered to the Kentucky Secretary of State for filing. The merger is approved effective as of July 1, 1998 but shall be effective on the date certified by the Secretary

of State (such date being herein referred to as the "effective date").

ARTICLE VII FURTHER ASSURANCES

If at any time the surviving corporation shall consider or be advised that any further assignments, conveyances, or assurances are necessary or desirable to vest, perfect, or confirm in the surviving corporation title to any property or rights of acquired corporation, or otherwise carry out the provisions hereto, the proper officers and directors of acquired corporation as of the effective date, and thereafter the officers of the surviving corporation acting on behalf of acquired corporation, shall execute and deliver any and all proper assignments, conveyances, and assurances, and do all things necessary or desirable to vest, perfect, or confirm title to such property or rights in surviving corporation and otherwise to carry out the provisions hereof.

ARTICLE VIII MISCELLANEOUS

(A) This plan of merger may be amended or supplemented at any time by mutual agreement of acquired corporation and acquiring corporation. Any such amendment or supplement must be in writing and approved by their respective boards of directors.

(B) The headings of several articles herein are inserted for convenience of reference only and are not intended to be a part

of or to affect the meaning or interpretation of this plan of merger.

(C) For the convenience of the parties hereto and to facilitate the filing and recording of this plan of merger, it may be executed in several counterparts, each of which shall be deemed the original, but all of which together shall constitute one and the same instrument.

(D) This plan of merger shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky applicable to agreements made and entirely to be performed in such jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this plan of merger to be executed in counterparts by their duly authorized officers all as of the date first above written.

COLONIAL COAL COMPANY, INC.,
a Kentucky corporation

BY:

B. W. McDonald
B. W. McDonald, President

COLONIAL COAL COMPANY, INC.,
a Florida corporation

BY:

B. W. McDonald
B. W. McDonald, President

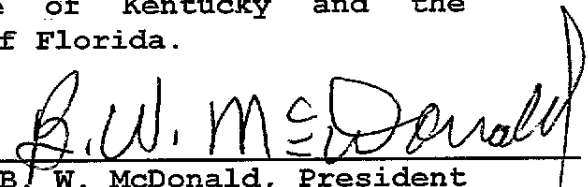
B

CLIFTON & MCDONALD CONSOLIDATED, INC.

Written Consent of Sole Shareholder

The undersigned, Clifton & McDonald Consolidated, Inc., a Kentucky corporation, being the sole shareholder of Colonial Coal Company, Inc., a Florida corporation, and Colonial Coal Company, Inc., a Kentucky corporation, ("Colonial"), and acting pursuant to the procedures established by Section 271B.8-210 of the Kentucky Business Corporation Act, hereby adopts the following resolutions with the same effect as if they had been duly adopted at a duly held meeting of the shareholders of Colonial and hereby consents to the taking of the actions referred to in such resolutions.

RESOLVED, that the undersigned, being the sole shareholder of Colonial, deeming it advisable that Colonial be merged with Colonial Coal Company, Inc., a Kentucky corporation, does hereby give consent in writing, to the approval and adoption of the plan of merger attached hereto, and consents to all acts amendatory and supplemental thereto, and does sign this resolution and consent to the end that it may be filed in the office of the Secretary of State of Kentucky and the Secretary of State of Florida.


B. W. McDonald, President
Clifton & McDonald Consolidated, Inc.

Dated: June 2, 1998

B

COLONIAL COAL COMPANY, INC.

Written Consent of Sole Director

The undersigned, being the sole director of Colonial Coal Company, Inc., a Florida corporation ("Colonial"), acting pursuant to the procedures established by Section 271B.8-210 of the Kentucky Business Corporation Act, hereby adopts the following resolutions with the same effect as if they had been duly adopted at a duly held meeting of the Board of Directors of Colonial and hereby consents to the taking of the actions referred to in such resolutions.

RESOLVED, that it be and hereby is recommended to the shareholder of Colonial that the corporation merge with Colonial Coal Company, Inc., a Kentucky corporation, on the terms and conditions and for the consideration as set forth in the form of the plan of merger appended hereto as Exhibit A;

RESOLVED, that Colonial's secretary be and hereby is authorized and directed to notify Colonial's shareholder, Clifton & McDonald Consolidated, Inc., in accordance with KRS 271B.7-050, of the proposed shareholders' meeting, which notice shall state that the purpose or one of the purposes of the meeting is to consider a plan of merger and shall contain or be accompanied by a copy or summary of the plan of merger; and

RESOLVED, that upon such approval and authorization of the shareholder, the president or other appropriate officer of the corporation shall take any and all action, including the execution and delivery of the plan of merger, necessary or convenient to effect the plan of merger in the name and on behalf of the corporation.

COLONIAL COAL COMPANY, INC.,
a Kentucky corporation

BY: B. W. McDonald
B. W. McDonald, Sole Director

Dated: June 2, 1998

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