

K61023

(Requestor's Name)

(Address)

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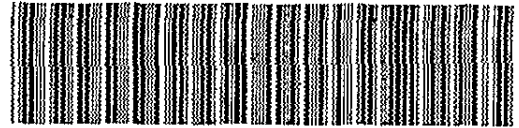
(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

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FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2003 AUG 29 PM 3:23

Filing date "re-dated"
to July 31, 2003 per
court order

Merger
LTS
9-9-03

FIRST EQUITY HOLDINGS

2157 Lincoln Street
Salt Lake City, Utah 84106
Telephone: (801) 323-2395
Facsimile: (801) 364-5645

July 30, 2003

Department of State
Division of Corporations
Corporate Filings
409 E Gaines Street
Tallahassee, FL 32399

Re: View Systems, Inc.

To Whom It May Concern:

I have enclosed two copies of the Articles of Merger for View Systems, Inc., and a check for \$70.00 made payable to the Secretary of State.

Once this document is filed please return a date stamped copy to our office address as listed above. You may use our Federal Express account number for the return mailing (1890-7597-9) If you have any questions please contact me at the above number. Thank you for your assistance in this matter.

Sincerely,



April Marino

Enclosures



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

August 12, 2003

FIRST EQUITY HOLDINGS
ATTN: APRIL MARINO
2157 LINCOLN ST
SALT LAKE CITY, UT 84106

SUBJECT: VIEW SYSTEMS, INC.
Ref. Number: K61023

We have received your document for VIEW SYSTEMS, INC. and your check(s) totaling \$70.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The document must have original signatures.

The Articles of Merger are illegible and not acceptable for imaging. [Please correct the "Fourth" section of your document to delete reference to the State of Florida acting as registered agent for this corporation.] Also, please state the capacity of the individuals signing.

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) 245-6957.

Pamela Smith
Document Specialist

Letter Number: 603A00044868

*Re send
docs to
Katie's email*

*And to
Louise
Jackson's attention*

FILED
SECRETARY OF STATE
DIVISION OF CORPORATION

2003 AUG 29 PM 3: 23

ARTICLES OF MERGER FOR VIEW SYSTEMS, INC., A FLORIDA CORPORATION

Pursuant to the provisions of § 607-1107 of the Florida Business Corporation Act, View Systems, Inc., a Nevada corporation (the "View NV"), hereby adopts and files the following Articles of Merger as the surviving corporation to the merger of View Systems, Inc., a Florida ("View FL"), with and into View NV:

FIRST: Name and Jurisdiction of Surviving Corporation. The principal place of business of View Systems, Inc., a Nevada Corporation is 1100 Wilso Blvd. Baltimore, MD 21223.

SECOND: Name and Jurisdiction of Merging Corporation. The principal place of business of View Systems, Inc., a Florida Corporation is 1100 Wilso Blvd. Baltimore, MD 21223.

THIRD: Agreement and Plan of Merger. A copy of the Agreement and Plan of Merger (the "Plan") governing the change of domicile merger between the View NV and View FL, as adopted by the Boards of Directors of the View NV and View FL on July 10, 2003, is attached hereto as Exhibit "A". The Plan, which is incorporated herein by this reference, results in the change of domicile of the Florida corporation and the termination of the corporations existence.


FOURTH: Shareholder Approval. The approval of the shareholders of the View NV and View FL was not required to effectuate the domicile merger.

FIFTH: Registered Agent. Pursuant to the provisions of the Florida Business Corporation Act § 607.1107(2)(a), the Corporation's registered agent in the State of Florida is the

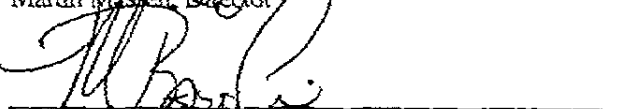
Secretary of the State of Florida, whose address is Department of State, Division of Corporations, Corporate Filings, P.O. Box 6327, Tallahassee, Florida 32314. The corporation hereby consents to the service of process on it in accordance with the provisions of the Florida Business Corporation Act § 607.1107(2)(a).

SIXTH: Effective Date and Time: These articles of merger shall be effective upon filing.

DATED this 25th day of July, 2003



Martin Maslen, Director



Michael Bagnoli, Director

**AGREEMENT AND PLAN OF MERGER BETWEEN
VIEW SYSTEMS, INC., A FLORIDA CORPORATION AND
VIEW SYSTEMS, INC., A NEVADA CORPORATION**

This Agreement and Plan of Merger is made and entered into on the 25th day of July, 2003, by and between View Systems, Inc., a Florida corporation ("View, FL"), and View Systems, Inc., a Nevada corporation ("View, NV"). View, FL and View, NV are hereinafter sometimes referred to jointly as (the "Constituent Corporations").

WHEREAS the Board of Directors of each of the Constituent Corporations have agreed by written consent that it is advisable that View, FL be merged with and into View, NV on the terms and conditions set forth below.

THEREFORE, the parties hereto hereby agree as follows:

1. Merger. View, FL shall be merged with and into View, NV (the "Merger"), and View, NV shall be the surviving and continuing entity (herein sometimes referred to as the "Surviving Corporation"), effective at the time when the Merger is made effective in accordance with the provisions hereof and applicable law (the "Effective Time").
2. Articles of Incorporation and Bylaws. The Articles of Incorporation of View, NV shall not be amended in any respect by reason of the Merger, and said Articles of Incorporation shall constitute the Articles of Incorporation of the Surviving Corporation unless or until they are subsequently amended by the action of the Board of Directors. The Bylaws of View, NV as they exist immediately before the Effective Time shall be the Bylaws of the Surviving Corporation.
3. Consideration. The shares of the Constituent Corporations shall be converted into shares of the Surviving Corporation in the following manner:

Upon completion of the merger transaction each share of View FL shall be converted into one share of View NV.
4. Officers and Directors. At the time this merger is completed the officers and directors of the Surviving Corporation following the Merger shall be as follows:

Barry Feldman	President and a Director
Gunther Than	Chairman and Treasurer
William Smith	Secretary and a Director
Martin Maassen	Director
Michael Bagnoli	Director

5. Title to Property and Assumption of Liabilities.

(a) The title or right to all property (real, personal and mixed) owned or possessed by either Constituent Corporation shall accrue to the Surviving Corporation without reversion or impairment.

(b) Any and all other interests of, belonging to, or due to either of the Constituent Corporations shall accrue to the Surviving Corporation without further act or deed.

(c) The Surviving Corporation shall assume all liabilities of each Constituent Corporation. Neither the rights of creditors nor any liens upon the property of either Constituent Corporation shall be impaired by the Merger.

(d) Any civil, criminal, administrative, or investigatory proceeding pending against either of the Constituent Corporations may be continued as if the Merger did not occur, or the Surviving Corporation may be substituted in the proceeding for either of the Constituent Corporations.

6. Service of Process. The Surviving Corporation agrees that it may be served with process in the State of Nevada in any proceeding for enforcement of any obligation of the Surviving Corporation arising from the Merger and irrevocably appoints Budget Corp at 777 E. William Street, Suite 202, Carson City, Nevada 89701 as its agent to accept service of process in any such suit or other proceeding and the Surviving Corporation authorizes the aforesaid Budget Corp. to send such process to it by registered mail directed to its registered office at 1100 Wilso Drive, Baltimore, MD 21223.

7. Fees and Expenses. The Surviving Corporation shall pay all fees and expenses incurred for the purpose of bringing both this Agreement and Plan of Merger and the Merger into effect.

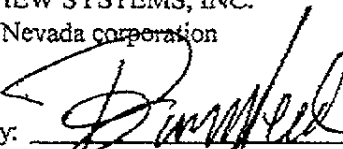
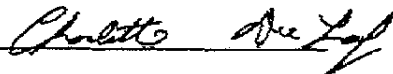
8. Further Assurances. If the Surviving Corporation shall have reason to request any further assignments, conveyances or other transfers that it is advised by counsel are necessary to vest in the Surviving Corporation title to any property or rights of either of the Constituent Corporations, the officers and directors of the appropriate Constituent Corporation shall execute any assignment, conveyance or transfer to vest such property or rights in the Surviving Corporation.

9. Shareholder Approval and Effective Time. This Agreement and Plan of Merger shall be effective at the time of filing and conversion of the shares.

10. Abandonment. This Agreement and Plan of Merger may be abandoned by the mutual consent of the Constituent Corporations if their respective Boards of Directors each adopt a resolution abandoning the Agreement and Plan of Merger before the Effective Time.

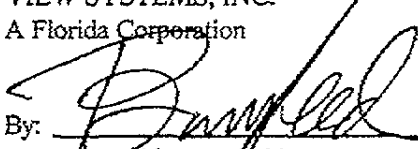
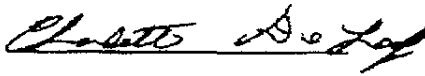
IN WITNESS WHEREOF, each Constituent Corporation acting by the authority set out in a resolution adopted by its Boards of Directors has directed this Agreement and Plan of Merger to be executed by the President and attested to by the Secretary of each Constituent Corporation.

VIEW SYSTEMS, INC.
a Nevada corporation

By:  Attest: 
Barry Feldman, President

By: WILLIAM D. SMITH Attest: 
William Smith, Secretary

VIEW SYSTEMS, INC.
A Florida Corporation

By:  Attest: 
Barry Feldman, President

By: WILLIAM D. SMITH Attest: 
William Smith, Secretary

IN THE CIRCUIT COURT OF
THE 4th JUDICIAL CIRCUIT IN AND FOR
DUVAL COUNTY, FLORIDA

VIEW SYSTEMS, INC.,

CASE NO. 2008-CA-001565-XXXX-MA
DIVISION CV-E

Plaintiff,

RECEIVED

v.

MAY 07 2008

STATE OF FLORIDA,
DEPARTMENT OF STATE,
DIVISION OF CORPORATIONS,

~~Proposed~~
SUMMARY JUDGMENT FOR
DECLARATORY RELIEF

OFFICE OF GENERAL COUNSEL

Defendant.

THIS MATTER came before the Court after a hearing on May 5, 2008. The State of Florida attended through counsel by telephone. After hearing argument from the parties' counsels, and there being no genuine issue of material fact at issue in this cause, and the Court being fully familiar with the record and having been otherwise advised, hereby renders summary judgment in this cause.

Accordingly, the Court **FINDS THAT THE FOLLOWING FACTS ARE NOT CONTROVERTED AND THEREFORE ARE UNDISPUTED:**

1. The Circuit Court has jurisdiction because the amount on controversy exceeds \$15,000.00.
2. Venue is appropriate in Duval County, Florida. Plaintiff maintained an office in Duval County, Florida, and Defendant did not assert an affirmative defense of lack of venue. *See, Tip Top Enterprises, Inc. v. Summit Consulting, Inc.*, 905 So.2d 201 (3d DCA 2005)(Objection to venue is waived if not asserted in affirmative defense or Rule 1.140 motion).

3. This matter involves an error in filing Plaintiff's, View Systems, Inc.'s, Articles of Merger with the State of Florida Department of State, Division of Corporations.
4. In approximately May 2003, Plaintiff decided to reorganize and to re-domicile itself in Nevada. Plaintiff embarked upon a statutory merger whereby it merged with a Nevada company called View Systems, Inc. for the purpose of having the Nevada company become the surviving entity. Critical to this merger was that the articles of merger of the merging companies be filed in both Florida and Nevada on the same date and that the articles filed in both jurisdictions be identical in terms.
5. Plaintiff files reports with the U.S. Securities and Exchange Commission and its common stock is publicly traded. Plaintiff had approximately 344 holders of record of Plaintiff's common stock, not including holders who hold their shares in street name, and that there were 98,398,422 shares of Plaintiff's common stock issued and outstanding and 7,171,725 shares of Plaintiff's preferred stock issued and outstanding, as of Plaintiff's 2006 fiscal year end. Plaintiff had 332 common stockholders of record, not including holders who held their shares in street name, and that there were 62,630,619 shares of Plaintiff's common stock issued and outstanding, as of Plaintiff's 2003 fiscal year end.
6. On July 31, 2003 in its attempt to re-domicile itself in the state of Nevada on July 31, 2003, Plaintiff filed Articles of Merger in Nevada and in Florida, and filing fees were paid, but the Florida Division of Corporations rejected the Articles of Merger and returned them to Plaintiff in August 2003.

7. Plaintiff then submitted another set of Articles of Merger to the Florida Department of State, Division of Corporations, in August 2003 that was accepted for filing. The re-filed Articles of Merger *were the original Articles*, bore the *original date of execution of July 25, 2003*, and contained the operative language of:

“SIXTH: Effective Date and Time: These articles of merger shall be effective upon filing.”

8. Plaintiff's employees or associates communicated telephonically with the State of Florida prior to resubmitting the Articles of Merger because the August 12, 2003 correspondence from the State of Florida bears these individuals' handwritten notes about relevant statutory information and the name of the State of Florida employee to address the resubmitted Articles. However, the Division of Corporations did not file the Articles of Merger as of the original filing date of July 31, 2003.
9. Plaintiff's board of directors and others associated with Plaintiff and involved in the filing process thought that their actions had been sufficient to obtain the original filing date. Plaintiff did not discover the filing error until more than four years had passed. During this time, Plaintiff held the mistaken belief that its statutory merger had been effective.
10. As a result of the filing date error, Plaintiff's corporate domicile and the property rights of View Systems, Inc. and its several hundred shareholders are left uncertain.

Discussion

There is no issue that Plaintiff intended to receive, and believed that it received, a July 31, 2003 filing date. At issue is whether declaratory relief is appropriate and whether Plaintiff's

statement in the original filed and the resubmitted Articles that “[t]hese articles of merger shall be effective upon filing” should be interpreted as being a written statement of Plaintiff’s intention to request the original filing date of July 31, 2003?

A latent ambiguity has arisen in the interpretations given to the word “filing” by Plaintiff and Defendant, with Plaintiff having assumed its resubmission and request for an effective date on the date of filing meant the date it first submitted its Articles, i.e., July 31, 2003, and with the Defendant claiming that, even though the filing fee was accepted on July 31, 2003, and the Articles having been later rejected, that resubmitted Articles are not filed as of the original date absent an express statement containing a request for effectiveness on a particular calendar day. Implicitly, it is Defendant’s position that Plaintiff’s resubmitted Articles, which contained the same request for an effective filing date on the date of filing as was contained in the original submitted Articles, is insufficient to comply with Fla. Stat. § 607.0123.

Plaintiff’s Articles of Merger, which were submitted to Defendant on July 31, 2003, contained a statement of the effective date in compliance with Fla. Stat. § 607.1105, in that the Articles declared that the effective date shall be the date of filing. Fla. Stat. § 607.1105 provides, in relevant part, that:

607.1105 Articles of merger or share exchange.--

- (1) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the Department of State for filing articles of merger or share exchange which shall be executed by each corporation as required by s. 607.0120 and which shall set forth:

- (a) The plan of merger or share exchange;
- (b) The effective date of the merger or share exchange, which may be on or after the date of filing the articles of merger or share exchange; **if the articles of merger or share exchange do not provide for an effective date of the merger or share exchange, then the effective date shall be the date on which the articles of merger or share exchange are filed;**

(Emphasis Added). The Court concludes that Plaintiff’s Articles of Merger contained a request for

an effective date in compliance with Fla. Stat. § 607.1105.

Defendant's standpoint is that Plaintiff did not literally request in writing that the resubmitted Articles be given their date of original filing of July 31, 2003. Fla. Stat. § 607.0123, provides, in relevant part:

607.0123 Effective time and date of document.--

(1) Except as provided in subsections (2) and (4) and in s. 607.0124(3), a document accepted for filing is effective on the date and at the time of filing, as evidenced by such means as the Department of State may use for the purpose of recording the date and time of filing.

...

(3) If a document is determined by the Department of State to be incomplete and inappropriate for filing, the Department of State may return the document to the person or corporation filing it, together with a brief written explanation of the reason for the refusal to file, in accordance with s. 607.0125(3). **If the applicant returns the document with corrections in accordance with the rules of the department within 60 days after it was mailed to the applicant by the department and if at the time of return the applicant so requests in writing, the filing date of the document will be the filing date that would have been applied had the original document not been deficient, except as to persons who relied on the record before correction and were adversely affected thereby. (Emphasis Added.)**

The undisputed facts and circumstances are consistent with Plaintiff's belief and reasonable reliance that it had complied with Fla. Stat. § 607.0123. According to Defendant's Answer to the Complaint, Defendant admits receiving the original Articles of Merger with full payment from the Plaintiff on July 31, 2003. The handwritten notes from Plaintiff's employees or associates on the August 12, 2003 correspondence from Defendant, which were resubmitted to Defendant in their entirety along with the resubmitted Articles, reflect that Plaintiff had telephonic communications with Defendant prior to resubmission. Defendant further admits that it received and accepted a corrected filing which was filed within 30 days of the original July 31, 2003 filing. Also, the affidavits attached to the Complaint in Exhibits 4, 5, 6, and 7, attest that Plaintiff believed that the effective date of filing was July 31, 2003, the date that it paid the filing fee and delivered the first set of Articles to Defendant. That, upon resubmission, Plaintiff did not specifically correct the

Articles to state that it wanted another effective date of filing is consistent with Plaintiff's belief that its Articles sufficiently requested the obvious, the date of original filing. Furthermore, the affidavits attached to the Complaint in Exhibits 4, 5, 6, and 7, attest that no individual relied on the uncorrected document or was injured by the filing of the corrected Articles of Merger. Therefore, Plaintiff complied with each element of Florida Statute § 607.0123.

According to Florida Statute § 607.0123, if Plaintiff complies with the statutory provisions and resubmits corrected articles within 60 days of the original filing, it is entitled to the original filing date of the Articles of Merger. The resubmitted Articles of Merger bear the written declaration that the Articles of Merger are effective upon filing. Clearly, Plaintiff believed, after conversations with Defendant's employees, that its written statement in the Articles themselves that the effective date meant the date when the Articles were initially submitted; i.e., the date that the filing fee was paid, July 31, 2003.

However, Defendant claims that the Plaintiff did not make a written request that the Articles of Merger would be dated with the *original* date of filing, July 31, 2003, rather than the August 29, 2003 date upon which it received the corrective filing. Therefore, Defendant refuses to change the filing date without a court order.

Nevertheless, the statute makes clear that the Plaintiff is entitled to have the Florida Division of Corporations change the effective date on the [resubmitted] Articles of Merger to the original filing date. This statute, upon which the Plaintiff relied, contains no requirement that the Plaintiff make a demand in writing for a specific calendar day of filing for resubmitted articles, it being sufficient that there being a written statement of the effective date, which Plaintiff's Articles contained, and then **"the filing date of the document will be the filing date that would have been applied had the original document not been deficient."**

Therefore, as a matter of law, by complying with the statute, the Plaintiff is entitled to the original July 31, 2003 effective date. In making this conclusion, the Court is not stating that the requirement of Fla. Stat. § 607.0123 for a written request for a particular filing date may be ignored. This Court finds that on these facts Plaintiff's written statement in its resubmitted Articles of Merger was sufficient to claim the filing date of July 31, 2003.

Declaratory Relief

"[T]he purpose of a declaratory judgment is to afford parties relief from insecurity and uncertainty with respect to rights, status, and other equitable or legal relations." *Santa Rosa County v. Administration Commission, Division of Administrative Hearings*, 661 So.2d 1190, 1192 (Fla. 1995). The Declaratory Judgment Act as described in *Coalition for Adequacy and Fairness in School Funding, Inc. v. Chiles*, 680 So.2d 400 (Fla. 1996), requires that a Plaintiff must show the following:

1. There is a bona fide, actual, and present practical need for declaration;
2. The declaration concerns a present, ascertainable state of facts or present controversy as to a state of facts;
3. An immunity, power, privilege, or right of Plaintiff is dependent upon the facts or the law applicable to the facts;
4. A person or persons have, or reasonably may have, an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law;
5. The antagonistic and adverse interest(s) are all before the court by proper process; and
6. The relief sought is not merely giving of legal advice or the answer to questions propounded for curiosity.

Plaintiff has demonstrated that declaratory relief is necessary because there is no adequate remedy at law to correct the filing date. All relevant parties are before the Court; Plaintiff has a right to a corrected date of filing of its Articles of Merger, and the legal relationship of Plaintiff's domicile with respect to the State of Florida remains unclear.

Also, Plaintiff has demonstrated its potential damage arising from this issue: because of the uncertainty of the effectiveness of the merger and Plaintiff's domicile, Plaintiff is unable to legally re-domicile in Nevada, is unable to issue securities to raise capital and continue to fund its operations, and the property rights of the Company and its several hundred shareholders and untold number of creditors are left uncertain and at substantial risk of damage, exposing all of them to great and irreparable harm if the merger were rendered ineffective.

Therefore there is little question that this Court has an opportunity to render practical relief from insecurity and uncertainty with respect to the affected persons' rights, status, and other equitable or legal relations. Given Plaintiff's compliance with the statutes, its reliance for almost five years on the effectiveness of the merger, and given that any shareholder, prospective investor, creditor, or any other person or entity interested in Plaintiff, including the State of Florida, has assumed and operated as if the merger was effective as of July 31, 2003, and given that there is no downside to any party or interested person to the issuance of an appropriate judicial decree, the balance of equities greatly favors the issuance to Plaintiff of an order of equitable relief.

Accordingly, based upon the aforementioned findings of facts and conclusions of law, IT
IS HEREBY ADJUDGED AND DECREED THAT:

1. This Court has original jurisdiction to determine this controversy. Art. V, § 5-6, Fla. Const.; *Davis v. Pinellas County Police Benev. Assoc., Inc.*, 742 So.2d 540 (2d DCA 1998).

2. The Florida Division of Corporations shall immediately re-date for all purposes the filing date of View Systems, Inc.'s Articles of Merger to July 31, 2003, the date upon which the Articles of Merger were originally filed, and
3. Plaintiff shall bear its costs.

DONE AND ORDERED in Chambers at Jacksonville, Florida, this ____ day of _____, 2008.

ORDER ENTERED
MAY - 5 2008
HON. BERNARD NACHMAN/s/ Bernard Nachman
CIRCUIT COURT JUDGE

Copies to:

Russell C. Weigel III, Esq.
General Counsel, Division of Corporations
Karon Beyer, Division of Corporations