



K99201

ACCOUNT NO. : 072100000032

REFERENCE : 901759 61936A

AUTHORIZATION :

COST LIMIT : \$ ~~PPD~~ \$35.00

ORDER DATE : July 23, 1998

ORDER TIME : 10:04 AM

ORDER NO. : 901759-005

CUSTOMER NO: 61936A

CUSTOMER: Mr. Daniel H. Luciano  
Mr. Daniel H. Luciano  
242-a W. Valley Brook Road  
Califon, NJ 07830

100002596361--1

DOMESTIC AMENDMENT FILING

NAME: R.J. GATORS, INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT  
       RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

       CERTIFIED COPY  
XX PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Janice Vanderslice  
EXAMINER'S INITIALS:

FILED  
98 JUL 27 PM 12:15  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
98 JUL 23 AM 11:23  
DIVISION OF CORPORATIONS

See 7/27



FLORIDA DEPARTMENT OF STATE  
Sandra B. Mortham  
Secretary of State

*Resubmit*

99 JUL 27 AM 10:39  
DIVISION OF CORPORATIONS

July 24, 1998

CSC

TALLAHASSEE, FL

SUBJECT: R. J. GATORS, INC.  
Ref. Number: K99201

We have received your document for R. J. GATORS, INC. and the authorization to debit your account in the amount of \$35.00. However, the document has not been filed and is being returned for the following:

If an amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required must be contained in the document.

The date of adoption of each amendment must be included in the document.

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) 487-6908.

Teresa Brown  
Corporate Specialist

Letter Number: 498A00039150

*Pg. 3 #2  
date*

**R. J. GATORS, INC.**  
**ARTICLES OF AMENDMENT**  
**TO ARTICLES OF INCORPORATION**

98 FILED  
JUL 27 PM 12:15  
TALLAHASSEE  
SECRETARY OF STATE

The undersigned corporation, R.J. Gators, Inc., organized under the laws of the State of Florida ("Company"), pursuant to Florida Statute 607.0601 hereby amends its Articles of Incorporation as provided herein:

1. The Board of Directors of the Company by resolution has created a series of its authorized preferred stock, \$0.001 par value, with the designation and the amount thereof and the voting powers, preferences and relative participating, optional and other special rights of the shares of such series, and the qualifications, limitations or restrictions thereof set forth as follows ("Rights and Preferences"):

**Section I.     Designation and Amount.**

The shares of such series shall be designated as the "Voting Preferred Stock - \$2.50 Stated Value" (" \$2.50 Voting Preferred Stock") and the number of shares constituting such series shall be 116,100.

**Section II.     Dividends.**

(A). Subject to the rights of series of preferred stock of the Company which may from time to time come into existence, the holder of the \$2.50 Voting Preferred Stock on the record date (as fixed herein below) shall be entitled to receive dividends, out of assets legally available therefore, prior and in preference to any declaration or payment of any dividend (payable other than in common stock or other securities and rights convertible into or entitling the holder thereof to receive additional shares of common stock of the Company) on the common stock of the Company, equal to five percent (5%) of the stated value of \$2.50 per share per annum on a calendar year basis (calculated on a 365 day year) from the date hereof, payable annually, on the first of each March for the preceding year, when, as and if declared by the board of directors of the Company, subject however to the proviso of paragraph B of this Section II. Such dividends shall accrue on each share from the date hereof, and shall accrue from day to day, whether or not earned or declared (it being understood that the dividend per share payable for the initial dividend year shall be pro-rata based upon a 365 day year). Dividends shall not be cumulative. The record date for purposes of the \$2.50 Voting Preferred Stock shall be December 31 of each year (each a "Record Date").

(B). Notwithstanding anything contained herein to the contrary, (i) if funds are not legally available for the payment of any dividend during any year, such dividend must be paid in the form of common stock as stated herein, and (ii) if funds are legally available for the payment of any dividends, the Board of Directors nonetheless at its sole discretion on or before a Record Date may determine to pay all but not any part of dividend in the form of common stock, \$0.001 par value, of the Company in accordance with the terms herein. The number of shares of common stock to be received as a dividend ("Dividend Shares") by a holder shall equal five percent (5%) of \$2.50 multiplied by the number of shares of \$2.50 Voting Preferred Stock held by the holder (less any

shares for which a dividend in cash has been paid to the holder for such dividend year) divided by the "Market Value" (as defined in the following sentence) per share of the common stock. Market Value per share of the common stock shall equal the greater of: (i) the most recent price (looking back from a respective Record Date) per share of common stock paid by an unaffiliated investor in a private offering of the Company, or (ii) the closing price per share of the common stock of the Company as quoted on any regulated securities market or electronic bulletin board on a respective Record Date (or if the securities markets are closed, then the trading day immediately preceding the Record Date). No fractional shares shall be issued in connection with the Dividend Shares, and the number of shares of common stock to be issued shall be rounded up or down to the nearest whole share. The effective date of ownership of the Dividend Shares shall be the Record Date and holder shall be deemed a shareholder of record of the Company for the Dividend Shares as of such date. The Company at all times shall reserve and keep available out of its authorized but unissued shares of its common stock, solely for the purpose of effecting the dividend, such number of its shares of common stock as from time to time shall be sufficient to effect the dividend; and if at any time the number of authorized but unissued shares of common stock shall be insufficient to effect the dividend, the Company shall take such corporate action necessary to increase the number of its authorized but unissued shares of its common stock to effect such dividend, including without limitation employing its best efforts to obtain requisite shareholder approval.

### Section III. Voting Rights.

Holders of \$2.50 Preferred Stock shall be entitled to cast ten (10) votes for each share held on all matters presented to the shareholders of the Company for shareholder vote.

### Section IV. Liquidation, Dissolution or Winding Up and Reorganization.

(A). Upon the dissolution, liquidation or winding up of the Company, whether voluntary or involuntary, the holder of the \$2.50 Voting Preferred Stock shall be entitled to receive and to be paid out of assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on the common stock or any other class of stock or series thereof ranking junior to this series upon liquidation, the amount of \$2.50 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereof on the date of final distribution.

(B). After payment to the holders of the shares of the \$2.50 Voting Preferred Stock of the amounts provided in the immediately preceding paragraph, the holders of this series as such shall have no right or claim to any of the remaining assets of the Company.

(C). The sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or assets of the Company shall be deemed a voluntary liquidation, dissolution or winding up of the Company for purposes of this section; provided however, that the merger or consolidation of the Company into or with any other corporation or the merger or

consolidation of any other corporation into or with the Company or the transfer by the Company of all or substantially all of its assets to any directly or indirectly owned subsidiary of the Company shall not be deemed a dissolution, liquidation or winding up for purposes of this Section D.


(D). In the event, prior to the any Record Date, the Company shall issue any of its common shares as a stock dividend, or shall subdivide the number of outstanding common shares into a greater number of shares then, in either of such event, the number of Dividend Shares shall be reduced proportionately. Conversely, in the event the Company shall reduce the number of its outstanding common shares by combining such shares into a smaller number of shares, then, in such event, the number of Dividend Shares shall be increased proportionately.

(E). In the event, prior to a Record Date , the Company shall be capitalized by reclassifying its outstanding common shares into shares with a different par value, or by changing its outstanding common shares to shares without par value, or in the event of any other material change of the capital structure of the Company or of any successor corporation by reason of any reclassification, recapitalization, conveyance, or any merger, combination or acquisition by or with another company or entity, then, in such event, prompt, proportionate, equitable lawful and adequate provision shall be made whereby any holder of the \$2.50 Voting Preferred Stock shall thereafter have the right to receive, on the basis and the terms and conditions specified herein, in lieu of the Dividend Shares, such securities or assets as may be issued or payable with respect to or in exchange for the number of common shares of the Company to be received as a Dividend Shares had such reclassification, recapitalization or conveyance taken place after a Record Date; and in any such event, the rights of any holder to any adjustment in the number of common shares to be received, as set forth above, shall continue and be preserved in respect of any stock, securities, or assets which the holder becomes entitled to receive; provided however, that (i) a merger, acquisition of a going business or a portion thereof (whether for cash, stock, notes or other securities, or a combination of cash and securities), exchanges of stock for stock, exchanges of stock for assets, or a like transaction involving the Company, (ii) the establishment of one or more employee stock option plans for employees of the Company (including its officers) or the modification, renewal, or extension of any such plan, or the issuance of common shares of the Company on the exercise of any options pursuant to such plan, and (iii) the issuance of individual warrants or options to purchase common shares of the Company, the issuance common shares of the Company pursuant to such warrants or options, or the issuance of common shares in connection with compensation arrangements for directors, officers, employees or agents of the Company or any subsidiary, and the like, will not be considered a "material change" for purposes of this paragraph, and no adjustment shall be made under this section by reason of any such merger, acquisition, exchange of stock for stock, exchange of stock for assets, or like transaction.

2. The Board of Directors of the Company adopted by unanimous vote on July 10, 1998 the described resolution which gives effect to the Rights and Preferences, and no shareholder vote was necessary.

IN WITNESS WHEREOF, the undersigned officer and director of the Company has executed these Articles of Amendment on July 16, 1998.

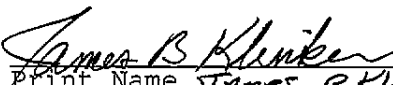
R.J. Gators, Inc.

  
Reginald L. Timoteo  
Chairman and President

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I hereby certify that on this day before me, an officer duly qualified to take acknowledgments and administer oaths, personally appeared REGINALD L. TIMOTEO personally known to me to be the person described therein or who has produced his drivers license as identification and executed the foregoing instrument and he acknowledged that he executed same and did [ ] did not [X] take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this the 16 day of July 1998.

  
Print Name James B. Klinker  
Notary Public  
My Commission Expires:

