

L04 0000029733

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SOUTH SUNSET BIRMINGHAM, LLC

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ARTICLES OF AMENDMENT  
TO  
ARTICLES OF ORGANIZATION  
OF  
SOUTH SUNSET BIRMINGHAM, LLC

By unanimous vote of the Members of SOUTH SUNSET BIRMINGHAM, LLC, a Florida limited liability company, originally incorporated effective April 12, 2004 under document number L04000029733, said Company does hereby, pursuant to the Florida Statutes, amend the existing Articles of Organization, in the following respects:

ARTICLE III

PURPOSE

The sole purpose of the Company is to engage in the ownership, holding, operation, and management of the real property located at 601 Gadsen Highway/112 Gene Reed Road, Birmingham, Alabama, as permitted under the laws of the United States and the State of Florida.

ARTICLE VI

GOVERNING PROVISIONS

In the event of any conflicts between the terms and conditions of these Articles of Organization and the Company's Operating Agreement or similar organizational documents, the terms and conditions of these Articles of Organization shall govern, but only to the extent of any such conflicts.

ARTICLE VII

SPECIAL PURPOSE ENTITY PROVISIONS

The Company has entered into and received certain financing in the original principal amount of \$1,250,000.00 (the "Loan") from CWCapital LLC, a Massachusetts limited liability company (together with its successors and assigns, the "Lender"), which Loan is secured by a first mortgage lien on certain real and other property located at 601 Gadsen Highway/112 Gene Reed Road, Birmingham, Alabama (the "Property"). Notwithstanding anything contained herein to the contrary and for so long as the Loan is outstanding:

(a) The Company does not own and shall not own any asset or property other than (i) the Property, and (ii) incidental personal property necessary for the ownership or operation of the

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Property.

(b) The Company shall not engage in any business other than the ownership, management and operation of the Property and the Company will conduct and operate its business as presently conducted and operated.

(c) The Company shall not enter into any contract or agreement with any affiliate of the Company, any constituent party of the Company, any guarantor (a "Guarantor") of the Loan or any part thereof or any affiliate of any constituent party or Guarantor, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any such party.

(d) The Company has not incurred and shall not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the Loan, (ii) unsecured trade and operational debt incurred in the ordinary course of business and (iii) debt incurred in the financing of equipment and other personal property used on the Premises, but, in no event, to exceed \$50,000.00. No indebtedness other than the Loan may be secured (subordinate or pari passu) by the Property.

(e) The Company has not made and will not make any loans or advances to any third party (including any affiliate or constituent party, any Guarantor or any affiliate of any constituent party or Guarantor), and shall not acquire obligations or securities of its affiliates.

(f) The Company is solvent and reasonably expects to be able to pay its debts from its assets as the same shall become due.

(g) The Company has done or caused to be done and shall do all things necessary to observe organizational formalities and preserve its existence, and will not, nor will any partner, member, shareholder, trustee, beneficiary, or principal amend, modify or otherwise change any provision of such party's organizational documents which pertains to the subject matter of this Article 7.

(h) The Company shall continuously maintain its existence and right to do business in the state where the Property is located.

(i) The Company will conduct and operate its business as presently conducted and operated.

(j) The Company shall maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any constituent party and the Company shall file

its own tax returns unless required otherwise by applicable law. The Company shall maintain its books, records, resolutions and agreements as official records.

(k) The Company shall be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate of the Company, any constituent party of the Company, any Guarantor or any affiliate of any constituent party or Guarantor), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its affiliates as a division or part of the other and shall maintain and utilize a separate telephone number and separate stationery, invoices and checks.

(l) Neither the Company nor any constituent party shall seek the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Company.

(m) The Company has and reasonably expects to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations.

(n) The Company shall not commingle the funds and other assets of the Company with those of any affiliate or constituent party, any Guarantor, or any affiliate of any constituent party of Guarantor, or any other person.

(o) The Company has and shall maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or constituent party, any Guarantor, or any affiliate of any constituent party or Guarantor, or any other person.

(p) The Company does not and shall not guarantee, become obligated for, or hold itself out to be responsible for the debts or obligations of any other person or entity or the decisions or actions respecting the daily business or affairs of any other person or entity.

(q) The Company shall not permit any affiliate or constituent party independent access to its bank accounts.

(r) The Company shall pay the salaries of its own employees and maintain a sufficient number of employees in light of its contemplated business operations.

(s) The Company shall not, nor shall any partner, member, shareholder, trustee, beneficiary or principal violate Section 10 of the Mortgage.

This Amendment was voted on and approved by unanimous consent of the members of the Company.

ARTICLE VIII

SPECIAL MEMBER

Upon the occurrence of any event that causes the Member to cease to be a member of the Company (other than (i) upon an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to the terms of this Agreement, or (ii) the resignation of the Member and the admission of an additional member of the Company pursuant to the terms of this Agreement), Bruce J. Goldman, whose address is 2655 Le Jeune Road, Suite 816, Coral Gables, Florida 33154, shall, without any action of any person and simultaneously with the Member ceasing to be a member of the Company, automatically be admitted to the Company as a Special Member and shall continue the Company without dissolution. No Special Member may resign from the Company or transfer its rights as Special Member unless a successor Special Member has been admitted to the Company as Special Member by executing a counterpart to this Agreement; provided, however, the Special Member shall automatically cease to be a member of the Company upon the admission to the Company of a substitute Member. The Special Member shall be a member of the Company that has no interest in the profits, losses and capital of the Company and has no right to receive any distributions of Company assets. A Special Member shall not be required to make any capital contributions to the Company and shall not receive a limited liability company interest in the Company. Except as required by any mandatory provision of the limited liability company act or similar statute in the state where this Company is formed, each Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company, including, without limitation, the merger, consolidation or conversion of the Company. In order to implement the admission to the Company of each Special Member, Bruce J. Goldman shall execute a counterpart to this Agreement. Prior to being admitted to the Company as Special Member, Bruce J. Goldman shall not be a member of the Company.

ARTICLE IX

NON-DISSOLUTION

Notwithstanding any other provision of this Agreement, the bankruptcy of the Member or a Special Member shall not cause the Member or Special Member, respectively, to cease to be a member of the Company and upon the occurrence of such an event, the Company shall continue without dissolution. Notwithstanding any

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other provision of this Agreement, each of the Member and the Special Member waives any right it might have to agree in writing to dissolve the Company upon the bankruptcy of the Member or a Special Member, or the occurrence of an event that causes the Member or a Special Member to cease to be a member of the Company.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 9 day of August, 2007.

Being all of the Members of the Company:

Norman S. Jaffe Revocable Living Trust u/a/d June 6, 1990

By:   
Norman S. Jaffe, Trustee

Being a Special Member of the Company:

By: 

Name: Bruce J. Goldman  
Title: Special Member