

LUY000063724

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(Address)

(City/State/Zip/Phone #)

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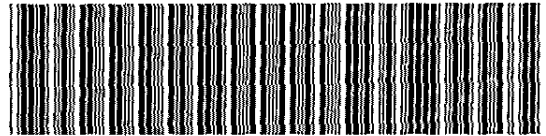
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RECEIVED
04 AUG 30 PM 4:50
DEPT. OF REVENUE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

FILED
04 AUG 30 AM 9:21
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CORPDIRECT AGENTS, INC. (formerly CCRS)
103 N. MERIDIAN STREET, LOWER LEVEL
TALLAHASSEE, FL 32301
222-1173

FILING COVER SHEET
ACCT. #FCA-14

FILED
04 AUG 30 AM 9:21
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CONTACT: KATIE WONSCH

DATE: 8/30/04

REF. #: 0150.29575

CORP. NAME: BERTHY'S, INC. merging into BERTHY'S LLC

- | | | |
|--|---|--|
| <input type="checkbox"/> ARTICLES OF INCORPORATION | <input type="checkbox"/> ARTICLES OF AMENDMENT | <input type="checkbox"/> ARTICLES OF DISSOLUTION |
| <input type="checkbox"/> ANNUAL REPORT | <input type="checkbox"/> TRADEMARK/SERVICE MARK | <input type="checkbox"/> FICTITIOUS NAME |
| <input type="checkbox"/> FOREIGN QUALIFICATION | <input type="checkbox"/> LIMITED PARTNERSHIP | <input type="checkbox"/> LIMITED LIABILITY |
| <input type="checkbox"/> REINSTATEMENT | <input checked="" type="checkbox"/> MERGER | <input type="checkbox"/> WITHDRAWAL |
| <input type="checkbox"/> CERTIFICATE OF CANCELLATION | | |
| <input type="checkbox"/> OTHER: | | |

STATE FEES PREPAID WITH CHECK# 509289 FOR \$ 90.00

AUTHORIZATION FOR ACCOUNT IF TO BE DEBITED:

_____ COST LIMIT: \$ _____

PLEASE RETURN:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> CERTIFIED COPY | <input type="checkbox"/> CERTIFICATE OF GOOD STANDING | <input type="checkbox"/> PLAIN STAMPED COPY |
| <input type="checkbox"/> CERTIFICATE OF STATUS | | |

Examiner's Initials

FILED
04 AUG 30 AM 9:21
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF MERGER
OF

BERTHY'S, INC.
(a Florida corporation)

into

BERTHY'S, LLC.
(a Florida limited liability company)

F03 000063748

L04 000063724

(UNDER § 607.1108 and §607.1109 of the Florida Business Corporation Act, and §608.438 and §608.4382 of the Florida Limited Liability Company Act)

1. Pursuant to § 607.1108 and §607.1109 of the Florida Business Corporation Act, and §608.438 and §608.4382 of the Florida Limited Liability Company Act, BERTHY'S, INC., a Florida corporation (the "Merging Entity"), and BERTHY'S, LLC, a Florida limited liability company, (the "Surviving Entity"), hereby adopt the following Articles of Merger:
2. The Plan of Merger, dated as of August 30, 2004 (the "Plan of Merger"), between the Merging Entity and the Surviving Entity is attached hereto as Exhibit A and incorporated herein by reference thereto.
3. The Plan of Merger, providing for the merger of the Merging Entity with and into the Surviving Entity (the "Merger") was adopted by the Merging Entity in accordance with the applicable provisions of Chapter 607 of the Florida Business Corporation Act, and by the Surviving Entity in accordance with the applicable provisions of Chapter 608 of the Florida Limited Liability Company Act.
4. The Merger shall become effective at the time of filing on the date these Articles of Merger are filed with the Department of State of the State of Florida.

IN WITNESS WHEREOF, these Articles of Merger have been executed by a duly authorized officer of each of the Merging Entity and the Surviving Entity on this 30 day of August, 2004.

BERTHY'S, INC.

By: 

Date: 8/30/04

Name: Albert Darwiche

Title: President

BERTHY'S, LLC.

By: 

Date: 8/30/04

Name: Albert Darwiche

Title: Member

EXHIBIT A

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER is made and entered into this 30th day of August, 2004, by and between BERTHY'S, INC., a Florida corporation (hereinafter sometimes referred to as the "Merged Corporation"), and BERTHY'S, LLC, a Florida limited liability company (the "Surviving Limited Liability Company"). The Merged Company and the Surviving Limited Liability Company hereinafter sometimes referred to as the "Constituent Entities."

WITNESSETH:

WHEREAS, the parties desire that the Merged Corporation merge into the Surviving Limited Liability Company in a manner which conforms to Sections 607.1108 and 608.4382, Florida Statutes.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations and warranties hereinafter set forth, the parties hereto agree as follows:

1. Merger. The Merged Corporation shall merge into the Surviving Limited Liability Company in accordance with the laws of the State of Florida (the "Merger").

2. Effective Date. The merger shall become effective upon filing Articles of Merger with the Secretary of State of Florida (the "Effective Date").

3. Rights of the Surviving Limited Liability Company.

(a) Upon the Effective Date: (a) the Merged Corporation and the Surviving Limited Liability Company shall become a limited liability company and the separate existence of the Merged Corporation shall cease; (b) the Surviving Limited Liability Company shall succeed to and possess all of the rights, privileges, powers and immunities of the Merged Corporation which, together with all of the assets, properties, business, patents, trademarks, and goodwill of the Merged Corporation, of every type and description wherever located, real, personal or mixed, whether tangible or intangible, including without limitation, all accounts receivable, banking accounts, cash and securities, claims and rights under contracts, and all books and records relating to the Merged Corporation shall vest in the Surviving Limited Liability Company without further act or deed and the title to any real property or other property vested by deed or otherwise in the Merged Corporation shall not revert or in any way be impaired by reason of the Merger; (c) all rights of creditors and all liens upon any property of the Constituent Entities shall be unimpaired; the Surviving Limited Liability Company shall be subject to all the contractual restrictions, disabilities and duties of the Constituent Entities; and all debts, liabilities and obligations of the respective Constituent Entities shall thenceforth attach to the Surviving Limited Liability Company and may be enforced against it to the same extent as if said debts, liabilities and obligations had been incurred or contracted by it; provided, however, that nothing herein is intended to or shall extend or enlarge any obligation or the lien of any indenture, agreement or other instrument executed or assumed by the Constituent Entities; and (d) without limitation of the foregoing provisions of this Section 3, all limited liability company acts, plans, policies, contracts, approvals and authorizations of the Constituent Entities, their members, Boards of Directors, committees elected or appointed by the Boards of Directors, officers and agents, which were valid and effective and which did not have terms expressly requiring termination by virtue of the Merger, shall be taken for all purposes as the acts, plans, policies, contracts, approvals and authorizations of the Surviving Limited Liability Company as they were with respect to the Constituent Entities. Upon the Effective Date, the shares of common stock of the Merged Corporation shall be automatically cancelled.

(b) At the Effective Date, each share of common stock of the Company which is issued and outstanding immediately prior to the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into the right to receive a membership interest of the Surviving Limited Liability Company. All of the shares of common stock of the Company by virtue of the Merger and without any action on the part of the holder thereof, shall no longer be outstanding and shall be canceled and retired and shall cease to exist, and the holder of certificates representing shares of common stock shall thereafter cease to have any rights with respect to such shares, except to receive from Surviving Limited Liability Company, after surrender of such certificate or certificates (the "Merger Consideration"). At the Effective Date, each share of common stock issued and held in the Company's treasury, if any, shall, by virtue of the Merger and without any action on the part of the Company, cease to be outstanding, shall be canceled and retired without payment of any consideration therefor and shall cease to exist. At the Effective Date, each membership interest of the Surviving Limited Liability Company issued and outstanding immediately prior to the Effective Date shall by virtue of the Merger and without any action on the part of the Merged Company or the holder of such shares, be converted into and thereafter represent one validly issued, fully paid and nonassessable interest of the Surviving Limited Liability Company.

4. Certificate of Organization. Members of Surviving Limited Liability Company. Upon the Effective Date: (a) the Articles of Organization of the Surviving Limited Liability Company shall continue as the Articles of Organization of the Surviving Limited Liability Company until amended in the manner provided by law; and (b) the member(s) of the Surviving Limited Liability Company Agreement shall remain the member(s) of the Surviving Limited Liability Company.

5. Designation and Number of Members; Manager. The designation and number of members of the Surviving Limited Liability Company are as follows:

The Surviving Limited Liability Company has one (1) member, Albert Darwiche, with its business address located at 21007 NE 32nd Street, Aventura, FL 33180. The Manager shall be Albert Darwiche with its address located at 21007 NE 32nd Street, Aventura, FL 33180.

6. Appointment of Agent for Service of Process. The Merged Corporation and the Surviving Limited Liability Company appoints CorpDirect Agents, Inc., 103 North Meridian Street, Lower Level, Tallahassee, FL 32301, with a copy of such process to be mailed to Juan Pablo Cappello, Esquire, c/o Greenberg Traurig, LLP, 1221 Brickell Avenue, Miami, Florida 33131.

7. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the Merger, and supersedes all prior agreements, written or oral, with respect thereto.

8. Waivers and Amendments. This Agreement may not be amended, modified, superseded, cancelled, renewed, extended or waived except by a written instrument signed by the parties, or, in the case of a waiver, by the party waiving compliance.

9. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

10. Headings. The headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

11. Severability of Provisions. The invalidity or unforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision of this Agreement shall in no way affect the validity or enforcement of any other provision or any part thereof.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall constitute an original copy hereof, but all of which together shall be considered but one in the same document.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

BERTHY'S, INC., a Florida corporation.

By: 

Date: 8/30/04

Name: Albert Darwiche

Title: President

BERTHY'S, LLC., a Florida limited liability company.

By: 

Date: 8/30/04

Name: Albert Darwiche

Title: Member