

L76105

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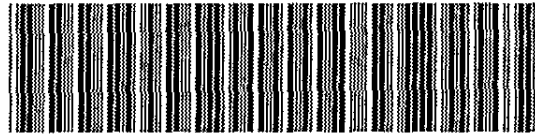
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EFFECTIVE DATE
7-1-07

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

07 JUN 27 PM 1:52

FILED



Jennifer B. Dunsizer
Senior Corporate Counsel

One Dave Thomas Boulevard
P.O. Box 256
Dublin, OH 43017
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Jennifer_Dunsizer@wendys

June 26, 2007

Via Federal Express

Florida Department of State
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

Re: Articles of Merger for Wendy's of N.E. Florida, Inc.

Dear Sirs:

Please find enclosed the Articles of Merger for Wendy's of N.E. Florida, Inc. and Wenark, Inc. submitted in compliance with Section 607.1104, Florida Statutes. Also enclosed is a check for \$78.75 covering the filing fees for both parties and as payment for one certified copy of the Articles of Merger.

Please return all correspondence concerning this matter and the certified copy of the Articles of Merger to my attention. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "JD", with a long horizontal line extending to the right.

Jennifer B. Dunsizer
Senior Corporate Counsel

JBD/jk
Enclosures

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TALLAHASSEE, FLORIDA

ARTICLES OF MERGER

The following Articles of Merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

First: The name and jurisdiction of the surviving corporation:

| <u>Name</u> | <u>Jurisdiction</u> | <u>Document Number</u> |
|-------------------------------|---------------------|------------------------|
| Wendy's of N.E. Florida, Inc. | Florida | L76105 |

Second: The name and jurisdiction of the merging corporation:

| <u>Name</u> | <u>Jurisdiction</u> | <u>Document Number</u> |
|--------------|---------------------|------------------------|
| Wenark, Inc. | Florida | P95000030376 |

Third: The Agreement and Plan of Merger is attached.


Fourth: The merger shall be effective as of 11:59 p.m. (EDST) on July 1, 2007.

Fifth: The Agreement and Plan of Merger was adopted by the board of directors of the surviving corporation on June 21, 2007 and shareholder approval was not required.


Sixth: The Agreement and Plan of Merger was adopted by the board of directors of the merging corporation on June 21, 2007 and shareholder approval was not required.

Seventh: Signatures for each corporation:

WENDY'S OF N.E. FLORIDA, INC.

By: 
Name: **JONATHAN F. CATHERWOOD**
Title: **Executive Vice President
& Treasurer**

WENARK, INC.

By: 
Name: **EVERETT E. GALLAGHER, JR.**
Title: **Senior Vice President**

**AGREEMENT AND PLAN OF MERGER
OF
WENARK, INC. INTO WENDY'S OF N.E. FLORIDA, INC.**

This Agreement and Plan of Merger (hereinafter referred to as the "Merger Agreement"), dated this 21st day of June, 2007, is made by and between WENARK, INC., a Florida corporation (hereinafter referred to as "Wenark"), and WENDY'S OF N.E. FLORIDA, INC., a Florida corporation (hereinafter referred to as "WONEF") (Wenark and WONEF are collectively referred to herein as the "Constituent Corporations") in compliance with the provisions of Section 607.1104 of the Florida Business Corporation Act.

WITNESSETH:

WHEREAS, the Board of Directors of each of the Constituent Corporations deem it advisable and in the best interests of their respective corporations and their shareholders that the Constituent Corporations be merged in a transaction through which Wenark (which is a wholly-owned subsidiary of WONEF) would cease to have a separate corporate existence; and

WHEREAS, the Board of Directors of each of the Constituent Corporations have approved this Merger Agreement by resolutions adopted by them; and

NOW, THEREFORE, in consideration of the premises and of their mutual covenants and agreements, it is hereby agreed by and between the Constituent Corporations that the terms of the merger (the "Merger") contemplated by this Merger Agreement, and the mode of carrying the Merger into effect, shall be as follows:

**ARTICLE ONE
The Surviving Corporation**

- 1.01 At the time when the Merger shall become effective (sometimes hereinafter called the "Merger Date"), Wenark (which is a wholly-owned subsidiary of WONEF) will merge into WONEF, and WONEF will be the continuing and surviving corporation in the Merger, will continue to exist under the laws of the State of Florida, and will be the only one of the Constituent Corporations to continue its separate corporate existence after the Merger Date. As used in this Merger Agreement, the term "Surviving Corporation" refers to WONEF from and after the Merger Date.
- 1.02 Notwithstanding the Merger Date set forth in Paragraph 4.01, for all corporate accounting purposes, this Merger has been treated as and shall upon this filing be deemed a defacto liquidation of Wenark.

- 1.03 The Articles of Incorporation of WONEF as of the Merger Date shall be the articles of the Surviving Corporation until amended in accordance with law.
- 1.04 The By-Laws of WONEF existing at the Merger Date shall be the by-laws of the Surviving Corporation until amended in accordance with law.
- 1.05 The directors of WONEF at the Merger Date shall be the continuing directors of the Surviving Corporation until changed in accordance with law.
- 1.06 The officers of WONEF at the Merger Date shall be the continuing officers of the Surviving Corporation until changed in accordance with law.
- 1.07 The Surviving Corporation's principal office will continue to be 4288 West Dublin-Granville Road, Dublin, Ohio 43017, and the Surviving Corporation may be served with process in the State of Florida in any proceeding for enforcement of any obligations of Wenark, as well as enforcement of any obligation of the Surviving Corporation by reason of the Merger.
- 1.08 The statutory agent in Florida to accept service of process in any such suit or other proceeding against WONEF or Wenark shall be CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.
- 1.09 At the time the Merger becomes effective, WONEF shall assume the liabilities and obligations of Wenark.

ARTICLE TWO

Distributions to Shareholder

- 2.01 The manner and basis of making distributions to the shareholder of Wenark in extinguishment of, and in substitution for, its shares of Wenark shall be as set forth in this Article Two.
- 2.02 At the Merger Date and as a result of the Merger, each of the issued shares of common stock of Wenark shall, automatically and without further act of either of the Constituent Corporations or of the holder thereof, be extinguished. At the Merger Date, Wenark's number of authorized shares will be 1,000 common shares, \$1.00 par value, of which 1,000 common shares will be outstanding, all of which have been issued to WONEF.
- 2.03 The issued and outstanding shares of the Surviving Corporation will remain unchanged.

ARTICLE THREE
Termination and Abandonment, Amendment

- 3.01 The Merger may be terminated and abandoned by action of the Board of Directors of WONEF and Wenark at any time prior to the Merger Date for any reason.
- 3.02 From time to time and at any time prior to the Merger Date, this Merger Agreement may be amended by an agreement in writing executed in the same manner as this Merger Agreement, after authorization of such action by the Board of Directors of WONEF and Wenark, but no such amendment shall (i) materially and adversely alter or change the rights and obligations of the sole shareholder without its approval or (ii) be prohibited by law.

ARTICLE FOUR
Effective Date of Merger

- 4.01 The Merger shall become effective at 11:59 p.m., Eastern Daylight Savings Time, on July 1, 2007.

ARTICLE FIVE
Miscellaneous

- 5.01 No director, officer, agent or employee of any Constituent Corporation shall receive any fee, commission, compensation or other valuable consideration whatsoever for aiding, promoting or assisting the Merger, except that accountants and attorneys retained by either corporation shall receive reasonable fees for their professional services.
- 5.02 This Merger Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall be deemed to constitute a single instrument.
- 5.03 The captions contained in this Merger Agreement are included only for convenience or reference and do not define, limit, explain or modify this Merger Agreement or its interpretation, construction or meaning and are in no way to be construed as apart of this Merger Agreement.
- 5.04 This Merger Agreement shall inure to the benefit of and be binding upon the respective successors and assigns (including successive, as well as immediate, successors and assigns) of the parties hereto.
- 5.05 The number and gender of each pronoun used in this Merger Agreement shall be construed to mean such number and gender as the context and circumstances may require.

5.06 – This Merger Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, this Merger Agreement has been executed on behalf of the Constituent Corporations by their officers duly authorized in the premises.

WENARK, INC.

By: Everett Gallagher, Jr.

EVERETT E. GALLAGHER, JR.
Senior Vice President

WENDY'S OF N.E. FLORIDA, INC.

By: [Signature]

JONATHAN F. CATHEN
JONATHAN F. CATHEN
Executive Vice President
& Treasurer