

L96089

Greenberg Traurig

Requestor's Name

101 E. College Ave

Address

Keithor Matt. 425 8513

Phone #

FILED

99 SEP 30 PM 4:02

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

1. Miami Acquisition Corp ~~L96089~~ P99000004802
(Corporation Name) (Document #)

2. Miami Subs Corporation L96089
(Corporation Name) (Document #)

3. _____
(Corporation Name) (Document #)

4. _____
(Corporation Name) (Document #)

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☐ Will wait

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☐ Certificate of Status

Articles of
merger

(2 originals enclosed)

NEW FILINGS	
<input type="checkbox"/>	Profit
<input type="checkbox"/>	NonProfit
<input type="checkbox"/>	Limited Liability
<input type="checkbox"/>	Domestication
<input type="checkbox"/>	Other

AMENDMENTS	
<input type="checkbox"/>	Amendment
<input type="checkbox"/>	Resignation of R.A., Officer/ Director
<input type="checkbox"/>	Change of Registered Agent
<input type="checkbox"/>	Dissolution/Withdrawal
<input checked="" type="checkbox"/>	Merger

OTHER FILINGS	
<input type="checkbox"/>	Annual Report
<input type="checkbox"/>	Fictitious Name
<input type="checkbox"/>	Name Reservation

REGISTRATION/ QUALIFICATION	
<input type="checkbox"/>	Foreign
<input type="checkbox"/>	Limited Partnership
<input type="checkbox"/>	Reinstatement
<input type="checkbox"/>	Trademark
<input type="checkbox"/>	Other

Merger
10-1-99
MHS

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*****78.75 *****78.75

Examiner's Initials

GREENBERG
ATTORNEYS AT LAW
TRAURIG

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Andrew E. Balog
(305) 579-0642
Baloga@gtlaw.com

September 29, 1999

VIA FEDERAL EXPRESS

Ms. Keith Van Atta
Greenberg Traurig, P.A.
101 East College Avenue
Post Office Drawer 1838
Tallahassee, FL 32302

Re: Articles of Merger of Miami Acquisition Corp. into Miami Subs Corporation

Dear Keith:

Per today's discussion, enclosed are two original copies of the Articles of Merger. We intend to file these Articles of Merger with the Florida Department of State sometime tomorrow, September 30th. I will contact you tomorrow morning at approximately 10:45 a.m. to discuss definitive timing.

Thank you for your assistance. Should you have any questions, please call me at 305-579-0642.

Regards,


Andrew

AEB/pj
Enclosures 2

MIAMI/BALOGA/1079821/m571011.DOC/9/29/99/27492.010100

ARTICLES OF MERGER
Merger Sheet

MERGING:

MIAMI ACQUISITION CORP., a Florida corporation, P99000004802

INTO

MIAMI SUBS CORPORATION, a Florida entity, L96089

File date: September 30, 1999

Corporate Specialist: Doug Spitler

**ARTICLES OF MERGER
OF
MIAMI ACQUISITION CORP.
(a Florida corporation)**

FILED
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

into

**MIAMI SUBS CORPORATION
(a Florida corporation)**

**(UNDER §607.1105 OF THE FLORIDA
BUSINESS CORPORATION ACT)**

Pursuant to §607.1105 of the Florida Business Corporation Act (the "FBCA"), MIAMI ACQUISITION CORP., a Florida corporation ("Merger Sub"), and MIAMI SUBS CORPORATION, a Florida corporation ("Miami Subs"), hereby adopt the following Articles of Merger:

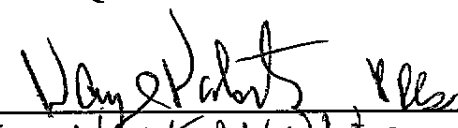
1. The Plan of Merger, dated as of September 28, 1999 (the "Plan of Merger"), between Merger Sub and Miami Subs is attached hereto as Exhibit A and incorporated herein by reference thereto.

2. The Plan of Merger, providing for the merger of Merger Sub with and into Miami Subs (the "Merger") was adopted by the sole shareholder of Merger Sub on September 28, 1999, and by the shareholders of Miami Subs on September 30, 1999.

3. 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 Merger Sub and Miami Subs on this 30th day of September, 1999.

MIAMI ACQUISITION CORP.

By: 
Name: VAYVE KOZBITZ
Title: President

MIAMI SUBS CORPORATION

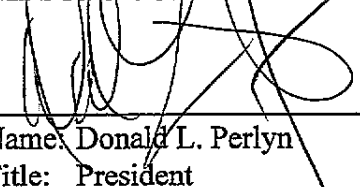
By: 
Name: Donald L. Perlyn
Title: President

EXHIBIT A

PLAN OF MERGER

THIS PLAN OF MERGER dated as of September 28, 1999, is between MIAMI ACQUISITION CORP., a Florida corporation ("Merger Sub"), and MIAMI SUBS CORPORATION, a Florida corporation ("Miami Subs").

1. **Terms of Merger.** Merger Sub shall, pursuant to the provisions of the Florida Business Corporation Act (the "FBCA"), be merged (the "Merger") with and into Miami Subs, which shall be the "Surviving Corporation" and shall continue to exist pursuant to the FBCA after completion of the Merger. Upon the effective date and time of the Articles of Merger filed with the Florida Department of State in connection herewith (the "Effective Time"), the existence of Merger Sub shall cease. From and after the Effective Time, Miami Subs shall assume the obligations of Merger Sub.

2. **Capital Stock; Conversion of Shares.**

(a) *Conversion of MSC Capital Stock.* Each share of Common Stock, par value \$.01 per share, of Miami Subs (the "MSC Capital Stock") issued and outstanding immediately prior to the Effective Time (other than any shares of MSC Capital Stock to be canceled pursuant to Section 2(b) and any Dissenting Shares (as defined in and to the extent provided in Section 2(f)) will be canceled and extinguished and automatically converted (subject to Section 2(e)) into the right to receive (i) a fraction of a share of common stock, par value \$.01 per share (the "Parent Common Stock"), of Nathan's Famous, Inc., the sole shareholder of Merger Sub (the "Parent"), having a value of \$2.068 (the "Exchange Ratio"); provided, however, that no more than one share of Parent Common Stock will be issued for each two shares of MSC Capital Stock. In addition, for each four shares of Parent Common Stock that a holder of MSC Capital Stock is entitled to receive, such holder shall be entitled to receive one warrant to purchase one share of Parent Common Stock (the "Warrant") at an exercise price of \$6.00 per share. Warrants will not be issued to purchase a fraction of a share of Parent Common Stock. For the purpose of calculating the Exchange Ratio, the value of a share of Parent Common Stock shall be the average closing price of a share of Parent Common Stock for the ten most recent days that Parent Common Stock has traded, ending on the trading day immediately prior to the Effective Time, as reported on the Nasdaq National Market System.

(b) *Cancellation of Parent Owned Stock.* Each share of MSC Capital Stock held in the treasury of Miami Subs or owned by Merger Sub, Parent or any direct or indirect wholly owned subsidiary of Miami Subs or of Parent immediately prior to the Effective Time shall be canceled and extinguished without any conversion thereof.

(c) *Stock Options.* At the Effective Time, all options to purchase MSC Capital Stock then outstanding under Miami Subs' 1990 Executive Option Plan (the "Miami Subs Option Plan"), and the options and warrants to purchase shares of Miami Subs Common Stock, in each case identified by Miami Subs to Parent on January 15, 1999 (the "Miami Subs Stock Options"), whether or not exercisable, shall be assumed by Parent. From and after the

Effective Time, each Miami Subs Stock Option so assumed by Parent under this Agreement shall be deemed to constitute an option to acquire Parent Common Stock, on the same terms and conditions as were applicable under such Miami Subs Stock Option, and (i) will be exercisable (or will become exercisable in accordance with its terms) for that number of whole shares of Parent Common Stock equal to the product of the number of shares of MSC Capital Stock that were issuable upon exercise of such Miami Subs Stock Option immediately prior to the Effective Time multiplied by the Exchange Ratio, rounded down to the nearest whole number of shares of Parent Common Stock, and (ii) the per share exercise price for the shares of Parent Common Stock issuable upon exercise of such assumed Miami Subs Stock Option will be equal to the amount determined by multiplying the exercise price per share of MSC Capital Stock at which such Miami Subs Stock Option was exercisable immediately prior to the Effective Time by \$2.068, rounded up to the nearest whole cent. As soon as practicable after the Effective Time, Parent shall deliver to the holders of Miami Subs Stock Options appropriate notices setting forth such holders' right pursuant to the Miami Subs Option Plan (and agreements evidencing the grants of such Miami Subs Stock Options) or, if not granted under the Miami Subs Option Plan, the agreement governing and evidencing such Miami Subs Stock Options, and indicating that such options shall continue in effect on the same terms and conditions (subject to the adjustments required by this Section 2(c) after giving effect to the Merger and the assumption by Parent as set forth herein).

(d) *Capital Stock of Merger Sub.* Each share of Common Stock, par value \$.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into and exchanged for one validly issued, fully paid and nonassessable share of Common Stock, par value \$.01 per share, of the Surviving Corporation. Each stock certificate of Merger Sub evidencing ownership of any such shares shall continue to evidence ownership of such shares of capital stock of the Surviving Corporation.

(e) *Fractional Shares.* No fraction of a share or Warrant to purchase a fraction of a share of Parent Common Stock will be issued by virtue of the Merger, but in lieu of fractional shares of Parent Common Stock, each holder of shares of MSC Capital Stock who would otherwise be entitled to a fraction of a share of Parent Common Stock (after aggregating all fractional shares of Parent Common Stock to be received by such holder) shall receive from Parent an amount of cash (rounded to the nearest whole cent) equal to the product of (i) such fraction, multiplied by (ii) the average closing price of a share of Parent Common Stock for the ten most recent days that Parent Common Stock has traded, ending on the trading day immediately prior to the Effective Time, as reported on the Nasdaq National Market System.

(f) *Dissenting Shares.* Notwithstanding any provision of this Agreement to the contrary, the shares of any holder of MSC Capital Stock who has demanded and perfected appraisal rights for such shares in accordance with the FBCA and who, as of the Effective Time, has not effectively withdrawn or forfeited such appraisal rights ("Dissenting Shares"), shall not be converted into or represent a right to receive Parent Common Stock pursuant to Section 2(a), but the holder thereof shall only be entitled to such rights as are granted by the FBCA.

3. **Articles of Incorporation.** The Articles of Incorporation of Miami Subs, as in effect immediately prior to the Effective Time, shall be the Articles of Incorporation of the Surviving Corporation until thereafter amended as provided by the FBCA and such Articles of Incorporation.

4. **Bylaws.** The Bylaws of Merger Sub as in effect immediately prior to the Effective Time shall be the Bylaws of the Surviving Corporation and shall continue in full force and effect until thereafter amended, altered, or repealed as provided therein, in the Articles of Incorporation of the Surviving Corporation and in the FBCA.

5. **Directors and Officers.** The directors and officers of Merger Sub identified in the Schedule attached hereto and incorporated herein by reference shall be the directors and officers of the Surviving Corporation in each case until their respective successors are duly elected or appointed and qualified.

6. **Amendment of Plan of Merger.** The Board of Directors of each of Miami Subs and Merger Sub are authorized to amend this Plan of Merger at any time prior to the Effective Time, subject to Section 607.1103(8) of the FBCA.

MIAMI ACQUISITION CORP.

By: Wayne Vokhitz, Pres.
Name: WAYNE VOKHITZ
Title: PRESIDENT

MIAMI SUBS CORPORATION

By: [Signature]
Name: Donald L. Perlyn
Title: President

SCHEDULE
OF
DIRECTORS AND OFFICERS OF THE SURVIVING CORPORATION

Directors

Howard M. Lorber
Donald L. Perlyn
Wayne Norbitz
Ronald DeVos
Carl Paley

Officers

Name	Office
Howard M. Lorber	Chief Executive Officer and Chairman of the Board
Donald L. Perlyn	President and Chief Operating Officer
Jerry Woda	Senior Vice President of Finance, Chief Financial Officer and Treasurer
Frank Baran	Vice President - Operations

The address of each director and officer is c/o Miami Subs Corporation, 6300 NW 31st Avenue,
Fort Lauderdale, Florida 33309.