



L98000002559

ACCOUNT NO. : 072100000032

REFERENCE : 883318 4332380

AUTHORIZATION :

Patricia Pigjito

COST LIMIT : \$ 105.00

ORDER DATE : November 1, 2000

ORDER TIME : 11:32 AM

ORDER NO. : 883318-010

CUSTOMER NO: 4332380

CUSTOMER: Mr. Michael R. Storace
Michael R. Storace, P.a.
Suite 504
5975 Sunset Drive
Miami, FL 33143

500003447525--6

effective date
11-3-00

ARTICLES OF MERGER

RIISING TIDE INVESTMENTS,
L.L.C.

INTO

HIGH TIDE INVESTMENTS, L.L.C.

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
PLAIN STAMPED COPY

CONTACT PERSON: Jeanine Reynolds EXT 1133
EXAMINER'S INITIALS:

JB
11-1-00

RECEIVED SECRETARY OF STATE
TALLAHASSEE, FLORIDA
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AND
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ARTICLES OF MERGER
Merger Sheet

MERGING:

RISING TIDE INVESTMENTS, L.L.C.

INTO

HIGH TIDE INVESTMENTS, L.L.C., entity

File date: November 1, 2000

Corporate Specialist: Trevor Brumbley

Account number: 072100000032

Amount charged: 80.00

**ARTICLES OF MERGER OF
RISING TIDE INVESTMENTS, L. L. C.,
A FLORIDA LIMITED LIABILITY COMPANY
INTO
HIGH TIDE INVESTMENTS, L. L. C.,
A DELAWARE LIMITED LIABILITY COMPANY**

The undersigned, being a Florida Limited Liability Company known as (**RISING TIDE INVESTMENTS, L. L. C.**) and a Delaware Limited Liability Company known as (**HIGH TIDE INVESTMENTS, L. L. C.**), desiring to comply with the requirements of Florida Statutes Section 608.4382 and the other provisions of the Florida Limited Liability Company Act, Florida Statutes Section 608.401, et seq. (the "Act"), does hereby certify as follows:

1. A true copy of the Plan of Merger is attached hereto as Exhibit A.
2. The Plan of Merger has been approved and executed by each of **HIGH TIDE INVESTMENTS L. L. C.** and **RISING TIDE INVESTMENTS, L. L. C.** in accordance with the applicable provision of Florida Statutes Section 608.401 et seq. and 6 Del C §18-01 et seq. 9800002559
3. The name of the surviving Delaware limited partnership is **HIGH TIDE INVESTMENTS, L. L. C.**
 - (a) The merger of **RISING TIDE INVESTMENTS, L. L. C.** into **HIGH TIDE INVESTMENTS, L. L. C.** shall be effective as of November 3, 2000.
4. The address of the principal place of business of **HIGH TIDE INVESTMENTS, L. L. C.** is 1220 North Market Street, Suite 700, P. O. Box 1355, Wilmington, Delaware 19899-1355, under the laws of the State of its formation.
5. **HIGH TIDE INVESTMENTS, L. L. C.** hereby acknowledges that it is deemed to have been appointed the Secretary of State of Florida as its agent for service of process in any proceeding to enforce any obligation of the rights of descending members of **HIGH TIDE INVESTMENTS, L.L.C.** and/or **RISING TIDE INVESTMENTS, L. L. C.**
6. **HIGH TIDE INVESTMENTS, L. L. C.** has agreed to promptly pay to the descending members of **RISING TIDE INVESTMENTS, L. L. C.** and/or **HIGH TIDE INVESTMENTS, L. L. C.** the amount, if any, to which such descending member may be entitled pursuant to Florida Statutes Section 608.4384.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Merger in accordance with Florida Statutes Section 608.4382 this 31st day of October 2000.

RISING TIDE INVESTMENTS, L. L. C. **HIGH TIDE INVESTMENTS, L. L.**

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PLAN OF MERGER

PLAN OF MERGER dated as of October 31, 2000, by and between **HIGH TIDE INVESTMENTS, L. L. C.**, a Delaware Limited Liability Company ("**HIGH TIDE**") and **RISING TIDE INVESTMENTS, L. L. C.**, a Florida Limited Liability Company ("**RISING TIDE**") and **THEODORE SPECHT WILLIAMS, JR.**, Individually and **THEODORE SPECHT WILLIAMS, JR. LIVING TRUST** (collectively the "**MEMBERS**"). (**HIGH TIDE** and **RISING TIDE** are being hereinafter sometimes referred to collectively as the "**CONSTITUENT BUSINESS ENTITIES**").

The respective Managers of **HIGH TIDE** and **RISING TIDE** deem the merger of **RISING TIDE** with and into **HIGH TIDE** provided for herein (the "Merger") desirable and in the best interests of their respective Members. The Members of **RISING TIDE** and **HIGH TIDE** have, by resolutions duly adopted, approved this Plan of Merger and have respectively directed that it be submitted to their respective Members for approval.

In consideration of the premises and the mutual agreements, provisions and covenants herein contained, and for the purpose of prescribing the terms and conditions of the Merger, the mode of carrying the same into effect, the manner and the basis for converting and exchanging the Membership Units of **RISING TIDE** ("**RISING TIDE MEMBERSHIP INTERESTS**"), into or for units of membership interests of no par value per unit of **HIGH TIDE** ("**HIGH TIDE MEMBERSHIP INTERESTS**"), as the Surviving Entity (as defined in Section 1.1 hereof), and such other details and provisions as are deemed necessary or desirable, the parties hereto have agreed, subject to the terms and conditions hereinafter set forth, as follows:—

ARTICLE I MERGER

Section 1.1. Parties to Merger and Surviving Entity.

- (a) The parties to be merged hereunder are **RISING TIDE INVESTMENTS, L.L.C.**, a Florida Limited Liability Company and **HIGH TIDE INVESTMENTS, L. L. C.**, a Delaware Limited Liability Company.
- (b) At the Effective Time (as defined in Section 1.6 hereof), and in accordance with the provisions of this Plan of Merger and the Delaware Limited Liability Company Act and the Florida Limited Liability Company Act, **RISING TIDE** shall be merged with and into **HIGH TIDE**, which shall be the Surviving Business Entity (hereinafter sometimes called the "**SURVIVING ENTITY**") and which shall continue its existence as a limited liability company under the laws of the State of Delaware under the name "**HIGH TIDE INVESTMENTS, L. L. C.**" At the Effective Time, the separate existence of **RISING TIDE** shall cease.

Section 1.2. Effect of the Merger. At the Effective Time, the **SURVIVING ENTITY** shall thereupon and thereafter possess all the rights, privileges, immunities powers and be subject to all the duties and liabilities of each of the **CONSTITUENT**

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BUSINESS ENTITIES so merged; and all the rights, privileges, immunities and franchises of a public as well as a private nature, of each of the **CONSTITUENT BUSINESS ENTITIES**, and all property, real, personal and mixed, and all debts due to either of the **CONSTITUENT BUSINESS ENTITIES** on whatever account, including subscriptions to shares, all other choses in action and all and every other interest of or belonging to or due to each of such **CONSTITUENT BUSINESS ENTITIES**, shall be taken and deemed to be transferred to and vested in the **SURVIVING ENTITY** without further act or deed; and the title to any real estate, or any interest therein, vested in either of such **CONSTITUENT BUSINESS ENTITIES** shall not revert or be in any way impaired by reason of the Merger; and the **SURVIVING ENTITY** shall thenceforth be responsible and liable for all the liabilities and obligations of the respective **CONSTITUENT BUSINESS ENTITIES**, and any claim existing or action or proceeding pending by or against either of the **CONSTITUENT BUSINESS ENTITIES** may be prosecuted as if the Merger had not taken place, or the **SURVIVING ENTITY** may be substituted for such **CONSTITUENT BUSINESS ENTITIES**; and neither the rights of creditors nor any liens upon the property of the respective **CONSTITUENT BUSINESS ENTITIES** shall be impaired by the Merger.

Section 1.3. Certificate of Formation. The Certificate of Formation of **HIGH TIDE**, as in effect at the Effective Time, shall be the Certificate of Formation of the **SURVIVING ENTITY** until thereafter amended as provided by law.

Section 1.4. Operating Agreement. The Operating Agreement of **HIGH TIDE**, as in effect at the Effective Time, shall be the Operating Agreement, as amended, of the **SURVIVING ENTITY** until amended as therein provided.

Section 1.5. Managers. The Managers of the **SURVIVING ENTITY** shall be the Manager of **HIGH TIDE**:

<u>NAME</u>	<u>ADDRESS</u>
THEODORE S. WILLIAMS, JR.	5101 Collins Avenue Apartment 15M Miami Beach, Florida 33140-2727

Section 1.6. Effective Time. The Merger shall become effective November 1, 2000, in accordance with 6 Del C §18-209(c)(4), and Florida Statute Section 608.4382.

The date and time when the Merger shall become effective is herein referred to as the "Effective Time."

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ARTICLE II
CONVERSION OF UNITS

Section 2.1. Conversion of RISING TIDE MEMBERSHIP INTERESTS
Into HIGH TIDE MEMBERSHIP INTERESTS.

- (a) Each **RISING TIDE MEMBERSHIP INTERESTS** outstanding immediately prior to the Effective Time (other than Membership Interests of **RISING TIDE** which are Dissenting Membership Interests, as defined in Section 2.1(d) hereof) shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted at the Effective Time into Forty (40) Membership Interests of **HIGH TIDE** membership interests hereinafter called ("**HIGH TIDE MEMBERSHIP INTERESTS**").
- (b) In the event that subsequent to the date hereof and prior to the Effective Time the outstanding **HIGH TIDE MEMBERSHIP INTERESTS** shall be changed into a different number of membership interests by reason of any reclassification, recapitalization, split up, combination, exchange of membership interests or readjustment, or if a membership interest distribution thereon shall be declared with a record date within such period, the number of **HIGH TIDE MEMBERSHIP INTERESTS** into which each **RISING TIDE MEMBERSHIP INTERESTS** shall be converted hereunder shall be correspondingly adjusted, and any new exchange ratio resulting from any such adjustment shall be rounded to three decimal places.
- (c) Notwithstanding any other provision of this Plan of Merger, each **RISING TIDE MEMBERSHIP INTERESTS** held in the treasury of **RISING TIDE** immediately prior to the Effective Time shall, by virtue of the Merger and without any action on the part of the holder thereof, automatically be cancelled and retired and cease to exist, and no **HIGH TIDE MEMBERSHIP INTERESTS** shall be issued with respect thereto.
- (d) **RISING TIDE MEMBERSHIP INTERESTS** as to which the right to dissent is perfected under Florida Statutes Section 608.4384 are referred to herein as "Dissenting Membership Interests." Holders of Dissenting Membership Interests shall:
 - (i) be entitled to asset dissenters rights only as set forth in Florida Statutes Section 608.4384(3); and,
 - (ii) to receive any payment of "fair value" pursuant to Florida Statutes Section 608.4384 and no other rights.
- (e) After the Effective Time, there shall be no further registry of transfers on the records of the **SURVIVING ENTITY** of **RISING TIDE MEMBERSHIP INTERESTS** outstanding prior to the Effective Time, and if certificates representing such membership interests are presented to the **SURVIVING ENTITY** or the Exchange Agent (and/or if hereinafter defined), they shall be cancelled and exchanged

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for certificates representing **HIGH TIDE MEMBERSHIP INTERESTS** as provided in this Article II.

Section 2.2. Issuance and Exchange of Certificates. The Manager of **HIGH TIDE** shall issue certificates representing **HIGH TIDE MEMBERSHIP INTEREST** in order to effectuate the exchange of certificates representing **RISING TIDE MEMBERSHIP INTEREST** as soon as practicable after the Effective Time, each holder of a certificate or certificates which immediately prior to the Effective Time represented outstanding membership interests of **RISING TIDE** (other than Dissenting Membership Interests), upon surrender of the same to **HIGH TIDE** (or such other bank or trust company as **HIGH TIDE** may select), as exchange agent for all such holders (the "Exchange Agent"), will be entitled to receive certificates representing the number of whole **HIGH TIDE MEMBERSHIP INTERESTS** into which such units of **RISING TIDE** shall have been converted in the Merger. Until so surrendered, each outstanding certificate which, prior to the Effective Time, represented **RISING TIDE** (other than Dissenting Membership Interests) shall be deemed for all corporate purposes, subject to the further provisions of this Article II, to represent the number of whole **HIGH TIDE MEMBERSHIP INTERESTS** into which such units shall have been converted. Subsequent to the Effective Time, unless and until any such certificate is so surrendered, no dividends or distributions of any kind payable to the holders of record of **HIGH TIDE MEMBERSHIP INTERESTS** as of any record date subsequent to the Effective Time shall be paid by **HIGH TIDE** to the holder of such certificate. Upon the surrender and exchange of such an outstanding certificate, the record holder of the certificate representing the **HIGH TIDE MEMBERSHIP INTERESTS** issued in exchange therefor shall be paid the amount of any dividends or distributions, without interest, which theretofore became payable with respect to the **HIGH TIDE MEMBERSHIP INTERESTS** evidenced by such certificate. If any certificate for **HIGH TIDE MEMBERSHIP INTERESTS** is to be issued in a name other than that in which the certificate surrendered in exchange therefor is registered, it shall be a condition of the issuance thereof that the certificate so surrendered shall be properly endorsed, and otherwise in proper form for transfer, and that the person requesting such exchange pay to the Exchange Agent any transfer or other taxes required by reason of the issuance of a certificate for **HIGH TIDE MEMBERSHIP INTERESTS** in any name other than that of the registered holder of the certificate surrendered in exchange therefor or establish to the satisfaction of the Exchange Agent that such tax has been paid or is not applicable.

Section 2.3. No Fractional Interests. No fractional **HIGH TIDE MEMBERSHIP INTERESTS** shall be issued to holders of **RISING TIDE**. In lieu thereof, each holder of **RISING TIDE MEMBERSHIP INTERESTS** otherwise entitled to a fraction of **HIGH TIDE MEMBERSHIP INTERESTS** shall receive an amount of cash equal to:

- (i) the book value of one **HIGH TIDE MEMBERSHIP INTERESTS**, multiplied by
- (ii) the fraction of a unit of **RISING TIDE** to which such Member would be otherwise entitled.

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Section 2.4 Warrants; Options. All warrants and options of **RISING TIDE** outstanding at the Effective Time shall remain outstanding warrants and options of the **SURVIVING ENTITY** after the Effective Time with the terms in effect immediately prior to the Effective Time, except that such warrants and options shall after the Effective Time be convertible into the number of **HIGH TIDE MEMBERSHIP INTERESTS** that would have been issuable at the Effective Time had such warrants and options been exercised for **RISING TIDE MEMBERSHIP INTERESTS** immediately prior to the Effective Time.

ARTICLE III **TERMINATION**

Section 3.1. This Plan of Merger may be terminated at any time prior to the Effective Time:

- (a) by mutual written consent of **RISING TIDE** and **HIGH TIDE**, properly authorized by their respective Managers and/or Managing Members; and
- (b) by **RISING TIDE** or **HIGH TIDE**,
 - (i) if the Effective Time shall not have occurred on or prior to November 30, 2000 (or such later date as shall have been approved by the Managers and/or Managing Members of **RISING TIDE** and **HIGH TIDE**), unless such failure of such occurrence shall be due to the failure of the party seeking to terminate this Plan of Merger to perform or observe the covenants, agreements and conditions hereof to be performed or observed by such party at or before the Effective Time; or
 - (ii) if any court of competent jurisdiction or other governmental body shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Plan of Merger and such order, decree, ruling or other action shall not have been withdrawn by the earlier of 30 days after the date on which such order, decree, ruling or other action was first issued or taken or November 30, 2000; or
 - (iii) if any material representation or warranty given or made in this Plan of Merger or pursuant hereto by the other was untrue in any material respect as of the date given or made; or
 - (iv) by **HIGH TIDE**, if more than 50% of the membership interests of **RISING TIDE** are Dissenting Membership Interests.

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ARTICLE IV
MISCELLANEOUS

Section 4.1. Expenses. All legal and other costs and expenses incurred in connection with this Plan of Merger and the transactions contemplated hereby shall be paid by the party incurring such expenses, except that the printing costs in connection with this Plan of Merger and the Registration Statement shall be borne one-half by **RISING TIDE** if for any reason the Merger shall not be consummated.

Section 4.2. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if sent by certified or registered mail, postage prepaid, addressed as follows:

(a) If to **HIGH TIDE**, to:

High Tide Investments, L. L. C.
1220 North Market Street
Suite 700, P. O. Box 1355
Wilmington, Delaware 19899-1355

Copy to:

Law Offices of Michael R. Storace, P. A.
5975 Sunset Drive, Suite 504
Miami, Florida 33143

(b) If to **RISING TIDE** to:

Rising Tide Investments, L. L. C.
5101 Collins Avenue
Apartment 15M
Miami Beach, Florida 33140-2727

Copy to:

Law Offices of Michael R. Storace, P. A.
5975 Sunset Drive, Suite 504
Miami, Florida 33143

or such other address as shall be furnished in writing by either party and any such notice or communication shall be deemed to have been given as of the date so mailed.

Section 4.3. Parties in Interest. This Plan of Merger shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that nothing in this Plan of Merger is intended to confer,

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expressly or by implication, upon any other person any rights or remedies under or by reason of this Plan of Merger.

Section 4.4. Complete Agreement. This Plan of Merger, including the Schedules and other writings referred to herein or delivered pursuant hereto which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, and undertakings other than those expressly set forth herein or therein. This Plan of Merger supersedes all prior agreements and understandings between the parties with respect to its subject matter.

Section 4.5. Modifications, Amendments and Waivers. At any time prior to the Effective Time, the parties hereto may, by written agreement:

- (a) extend the time for the performance of any of the obligations or other acts of the parties hereto;
- (b) waive any inaccuracies in the representations and warranties contained in this Plan of Merger or in any document delivered pursuant hereto; and
- (c) waive compliance with any of the covenants or agreements contained in this Plan of Merger.

At any time prior to the Effective Time, if authorized by their respective Members and/or Managers and any necessary approvals of Managers and/or Members are obtained, the parties hereto may, by written agreement, amend or supplement any of the provisions of this Plan of Merger. Any written instrument or agreement referred to in this paragraph shall be validly and sufficiently authorized for the purposes of this Plan of Merger if signed on behalf of **RISING TIDE** and **HIGH TIDE** by a person authorized to sign this Plan of Merger.

Section 4.6. Counterparts. This Plan of Merger may be executed in one or more counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

Section 4.7. Governing Law. This Plan of Merger shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware.

Section 4.8. Brokers. Each of **RISING TIDE'S** Members and **HIGH TIDE'S** hereby represents that no amounts are payable as broker or finder fees in connection with any of the transactions contemplated by this Plan of Merger.

Section 4.9. Best Efforts. Each of **RISING TIDE'S** Members and **HIGH TIDE'S** Members agrees to use its, his and/or her best efforts to bring about transactions contemplated by this Plan of Merger as soon as practicable, unless theretofore terminated as herein provided.

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Section 4.10. Publicity. RISING TIDE'S Members and HIGH TIDE'S Members agree that press releases and other announcements with respect to the Merger shall be subject to mutual agreement.

Section 4.11. Closing. The closing of the transactions contemplated by this Plan of Merger shall take place as soon as practicable after the last of the conditions referred to herein are satisfied or waived and shall be held at the offices of RISING TIDE, or at such other time and place as RISING TIDE and HIGH TIDE may agree.

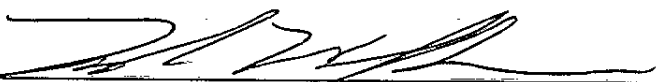
IN WITNESS WHEREOF, RISING TIDE and HIGH TIDE have caused this Plan of Merger to be executed by their Managers and Members, respectively, and their respective seals to be affixed hereto, as of the day and year first above written.

[Corporate Seal]

RISING TIDE INVESTMENTS, L. L. C.

BY: 
THEODORE S. WILLIAMS, JR., as Manager.

THEODORE SPECHT WILLIAMS, JR. LIVING TRUST

BY: 
THEODORE S. WILLIAMS, JR., as Trustee of the
THEODORE SPECHT WILLIAMS, JR. LIVING
TRUST (Limited Partner).

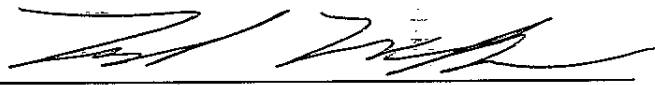

THEODORE S. WILLIAMS, JR., Individually and as
Limited Partner.

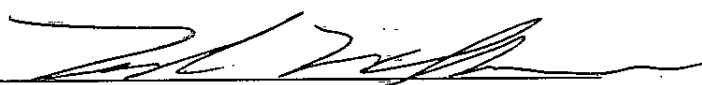
HIGH TIDE INVESTMENTS, L. L. C.

BY: 
THEODORE S. WILLIAMS, JR., as Manager.

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THEODORE SPECHT WILLIAMS, JR. LIVING
TRUST

BY: 
THEODORE S. WILLIAMS, JR., as Trustee of the
THEODORE SPECHT WILLIAMS, JR. LIVING
TRUST (Limited Partner).


THEODORE S. WILLIAMS, JR., Individually and as
Limited Partner

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