

APR. 5. 2004

**N04000003482**

1 of 1

Florida Department of State  
Division of Corporations  
Public Access System

*pan*

Electronic Filing Cover Sheet

**Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.**

(((H04000071391 3)))

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.**

To:

Division of Corporations  
Fax Number : (850) 205-0381

From:

Account Name : CORPORATION SERVICE COMPANY  
Account Number : I20000000195  
Phone : (850) 521-1000  
Fax Number : (850) 558-1575

**FLORIDA NON-PROFIT CORPORATION**  
**HEALTHY AND ACTIVE AMERICA FOUNDATION, INC.**

Certificate of Status	1
Certified Copy	1
Page Count	07
Estimated Charge	\$87.50

04 APR -5 AM 8:55  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

FILED

Electronic Filing Menu

Corporate Filing

Public Access Help

APR. 5. 2004 10:15AM

CORPORATION SVC CO

NO. 414 P. 2

H 04000071391 3

**ARTICLES OF INCORPORATION  
OF  
HEALTHY AND ACTIVE AMERICA FOUNDATION, INC.**

The undersigned, acting as sole incorporator, adopts these Articles of Incorporation for the purpose of forming a not-for-profit corporation under the Florida Not for Profit Corporation Act (the "Act"), as follows:

**Article I  
Name**

The name of the Corporation is Healthy and Active America Foundation, Inc. (the "Corporation").

**Article II  
Term of Existence**

The Corporation will have perpetual existence.

**Article III  
Purposes**

The Health and Active America Foundation, Inc. (the "Foundation") has been formed exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code (the "Code"), including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Code, and specifically to establish, maintain, and administer projects to educate and encourage young people to maintain healthy and active lifestyles.

**Article IV  
Powers**

The Corporation will have all powers granted under the Act to not-for-profit corporations subject to the limitations described in these Articles of Incorporation and as may be required in order for the Corporation to maintain its not-for-profit and tax-exempt status under the Act and the Internal Revenue Code of 1986, as amended from time to time, or any successor statute (the "Code") or any regulations promulgated thereunder. Notwithstanding any other provision of these Articles of Incorporation, the Corporation will not carry on any other activities not permitted to be carried on by: (a) any corporation exempt from federal income tax under Section 501(c)(3) of the Code; or (b) any corporation contributions to which are deductible under Section 170(c)(2) of the Code. In attempting to fulfill the general nature of the objects of this Corporation, and to ensure that it meets with the requirements of an exempt organization under Section 501(c)(3) of the Code, the Corporation will strictly adhere to the following:

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

04 APR -5 AM 8:56

FILED

APR. 5. 2004 10:16AM

CORPORATION SVC CO

NO. 414 P. 3

#04000071391 3

(1) No part of the net earnings of the Corporation shall inure to the benefit of any member, trustee, director or officer of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation), and no member, trustee or officer of the Corporation or any private individual shall be entitled to share in the distribution of any of the Corporation's assets upon dissolution of the Corporation.

(2) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation except as otherwise provided by Section 501(h) of the Code, and the corporation shall not influence legislation or participate or intervene in (including the publication or distribution of statements for) any political campaign on behalf of, or in opposition to, any candidate for public office.

(3) In any taxable year in which the Corporation is a private foundation as described in Section 509(a) of the Code, the Corporation shall distribute its income for said period at such time and in such manner as not to subject it to tax under Section 4942 of the Code, and the Corporation shall not: (a) engage in any act of self dealing as defined in Section 4941(d) of the Code; (b) retain any excess business holdings as defined in Section 4943(c) of the Code; (c) make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; or (d) make any taxable expenditures as defined in Section 4945(d) of the Code or corresponding provisions of the Code.

#### **Article V** **Dissolution**

In the event of dissolution or final liquidation of the Corporation, all of the remaining assets and property of the Corporation (after paying or making provision for the payment of all of the lawful debts and liabilities of the Corporation) shall be distributed to another organization exempt under Section 501(c)(3) of the Code, with similar purposes; provided however, that if such an organization does not exist or otherwise cannot be found after reasonable inquiry, the Board of Directors of the Corporation shall select another organization exempt under Section 501(c)(3) of the Code to receive such assets and property, or to the Federal government or any state or local government for a public purpose, subject to the approval of a Justice of the Supreme Court of the State of New York.

#### **Article VI** **Principal Office**

The initial principal office and mailing address of the Corporation is 201 East Kennedy Boulevard, Tampa, Florida 33602.

APR. 5. 2004 10:16AM

CORPORATION SVC CO

NO. 414

P. 4

004000071391 3

**Article VII**  
**Initial Directors and Officers**

The Corporation shall have three (3) initial directors. The directors of the Corporation shall be elected and shall hold office in accordance with, and subject to, the provisions of the By-laws of the Corporation. The number of directors may be increased or decreased from time to time in accordance with the By-Laws of the Corporation, provided that the Corporation shall have at all times at least three (3) directors. The names and addresses of the initial directors of the Corporation, who will serve until their successor(s) are duly elected and qualified, are:

<u>Name</u>	<u>Address</u>
Kiki McLean	1001 G Street, N.W. Suite 300 East Washington, DC 20001
Patrick Baskette	201 Kennedy Boulevard Suite 950 Tampa, FL 33602
Charles Baker III	One International Drive Boston, MA 02110

**Article VIII**  
**Initial Registered Office and Agent**

The street address of the initial registered office of the Corporation is 201 Kennedy Boulevard, Suite 950, Tampa, FL 33602 and the name of its initial registered agent at such address is Patrick Baskette.

**Article IX**  
**Incorporator**

The name and address of the incorporator signing these Articles of Incorporation is:

<u>Name</u>	<u>Address</u>
Rita Patel	c/o Piper Rudnick LLP 1200 19 <sup>th</sup> Street, N.W. Washington, DC 20036

H 04000071391 3

**Article X**  
**By-Laws**

The power to adopt, alter, amend or repeal the By-laws of the Corporation shall be vested in the Board of Directors of the Corporation.

**Article XI**  
**Director Liability**

No director of the Corporation shall be personally liable to the Corporation or to any person for monetary damages for breach of fiduciary duty as a director, except to the extent otherwise specifically provided by Section 617.0834 of the Act, as in effect on the date hereof. The purpose of this Article XI is to limit the liability of the directors of the Corporation to the fullest extent permitted under Section 617.0834 of the Act, as in effect on the date hereof. In the event that Section 617.0834 of the Act or this Article XI is hereafter amended, modified or repealed, such amendment, modification or repeal, to the extent it would in any way enlarge the liability of any director of the Corporation beyond the scope of the preceding sentences, shall not apply to any acts or omissions by the director occurring prior to the date of such amendment, modification or repeal.

**Article XII**  
**Indemnification**

To the fullest extent permitted under Section 617.0831 of the Act (or any successor statute), the Corporation shall indemnify and hold harmless each person (an "Indemnitee") who was or is made a party to, is threatened to be made a party to, or is in any way involved in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including, without limitation, any appeal therefrom or any action or suit by or in the right of the Corporation, by reason of the fact that such Indemnitee (or any person of whom such Indemnitee is an heir, executor, administrator or other legal representative) is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise (including, without limitation, any employee benefit plan), against any and all expenses, liabilities and losses (including, without limitation, attorneys' fees and costs, judgments, fines, penalties, and amounts paid in settlement) actually and reasonably incurred or suffered by such Indemnitee in connection with such action, suit, or proceeding.

Any and all expenses (including attorneys' fees and costs) incurred by an Indemnitee in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding; provided that such Indemnitee shall have executed and delivered to the Corporation a written agreement to repay such amounts advanced if it

H04000071391-3

shall ultimately be determined that such Indemnitee is not entitled to be indemnified by the Corporation as authorized by Section 617.0831 of the Act (or any successor statute).

The purpose of this Article XII is to provide to all Indemnitees the right to indemnification and advancement of expenses to the fullest extent permitted under Section 617.0831 of the Act (or any successor statute). In the event that Section 617.0831 of the Act or this Article XII is hereafter amended, modified or repealed, such amendment, modification or repeal, to the extent it would in any way reduce, limit or eliminate an Indemnitee's right to indemnification or advancement of expenses under this Article XII, shall not apply to such Indemnitee's claims for indemnification or advancement of expenses arising out of or based upon any acts, omissions or circumstances occurring or existing prior to the date of such amendment, modification or repeal. In the event that Section 617.0831 of the Act is hereafter amended or modified to permit the Corporation to provide broader rights of indemnification and advancement of expenses than said provision authorized the Corporation to provide prior to such amendment or modification, the rights of indemnification and advancement of expenses conferred by this Article XII shall be broadened to the fullest extent permitted by such amendment or modification.

In any proceeding by an Indemnitee against the Corporation to enforce the rights to indemnification and advancement of expenses conferred by this Article XII, such Indemnitee shall be presumed to be entitled to indemnification and advancement of expenses as provided hereunder and the Corporation shall have the burden of proving that such Indemnitee has not met the standards of conduct for indemnification set forth in Section 617.0831 of the Act. The rights to indemnification and advancement of expenses conferred by this Article XII shall be presumed to have been relied upon by the directors and officers of the Corporation in serving or continuing to serve the Corporation and shall be enforceable as contract rights. Said rights shall not be exclusive of any other rights to which any Indemnitee or other person seeking indemnification or advancement of expenses may otherwise be entitled under the By-laws of the Corporation (as in effect from time to time), by agreement, pursuant to a vote of the Board of Directors of the Corporation or otherwise. The Corporation may, upon written demand presented by any Indemnitee, enter into contracts to provide to such Indemnitee specified rights to indemnification and advancement of expenses, which contracts may confer rights and protections to the fullest extent permitted under Section 617.0831 of the Act (or any successor statute) or any other applicable law.

If a claim under this Article XII is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation from an Indemnitee, such Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, such Indemnitee shall be entitled to be paid also the expenses of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce the right to advancement of expenses incurred in defending any proceeding prior to its final disposition to the extent the undertaking, if any, required by this Article XII has been tendered to the Corporation) that such Indemnitee has not met the standards of conduct for indemnification set forth in Section 617.0831 of the Act (or any successor statute), but

APR. 5. 2004 10:18AM

CORPORATION SVC CO

NO. 414

P. 7

H04000071391 3

such Indemnitee shall be presumed to be entitled to indemnification and the Corporation shall have the burden of proving that such Indemnitee has not met the standards of conduct for indemnification set forth in Section 617.0831 of the Act (or any successor statute).

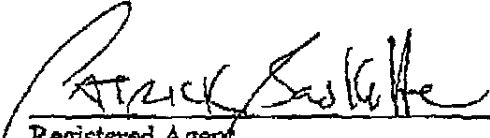
**Article XIII**  
**Amendment**

These Articles of Incorporation may be amended in the manner provided by law.

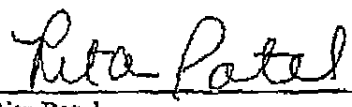
\*\*\*\*\*

Having been named registered agent and designated to accept service of process for the above-stated corporation at the place designated in these Articles of Incorporation, I agree to act in this capacity and further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

Date: March 31, 2004

  
\_\_\_\_\_  
Registered Agent

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation on this 1<sup>st</sup> day of April, 2004.

  
\_\_\_\_\_  
Rita Patel  
Sole Incorporator

FILED  
04 APR -5 AM 8:56  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA