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FILED  
MAY 10 2017  
CLERK OF COURT  
JANET L. MOON

M. MOON

MAY 10 2017

## COVER LETTER

Department of State  
Division of Corporations  
P. O. Box 6327  
Tallahassee, FL 32314

**SUBJECT:** Shadow Creek at Hibiscus Condominium Association, Inc.  
(PROPOSED CORPORATE NAME – MUST INCLUDE SUFFIX)

Enclosed is an original and one (1) copy of the Articles of Incorporation and a check for :

☐ \$70.00  
Filing Fee

☐ \$78.75  
Filing Fee &  
Certificate of  
Status

☒ \$78.75  
Filing Fee  
& Certified Copy

☐ \$87.50  
Filing Fee,  
Certified Copy  
& Certificate

**ADDITIONAL COPY REQUIRED**

FROM: Michael D. Gentzle, Esq.  
Name (Printed or typed)

4001 Tamiami Trail North, Suite 300  
Address

Naples, FL 34103  
City, State & Zip

(239) 435-3535  
Daytime Telephone number

al@nmdev.com

E-mail address: (to be used for future annual report notification)

**NOTE: Please provide the original and one copy of the articles.**

17 MAY 10 PM 2:59  
RECEIVED  
MAY 10 2010  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION**

**OF**

**SHADOW CREEK AT HIBISCUS CONDOMINIUM ASSOCIATION, INC.**

Pursuant to Chapter 617, Florida Statutes, David W. Nassif, with an address of 225 Banyan Boulevard, Suite 240, Naples, Florida 34102, as the sole incorporator, by these Articles of Incorporation, hereby forms a corporation not-for-profit and certifies as follows:

**ARTICLE I  
NAME AND ADDRESS**

The name of the corporation, herein called the "Association", is Shadow Creek at Hibiscus Condominium Association, Inc. The address of the Association is 225 Banyan Boulevard, Suite 240, Naples, Florida 34102.

**ARTICLE II  
PURPOSE AND POWERS**

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act for the operation of Shadow Creek at Hibiscus, a Condominium ("Condominium"), located in Naples, Florida. The Association is organized and shall exist upon a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, including without limitation as set forth in Section 617.0302, Florida Statutes, except as limited or modified by these Articles, the Bylaws of the Association, or the Declaration of Condominium for the Condominium ("Declaration"), as they may hereafter be amended, including but not limited to the following:

- (A) To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Condominium, and to use the proceeds of assessments in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace, and operate the common elements within the Condominium, as defined and further detailed in the Declaration.
- (C) To purchase insurance upon the common elements within the Condominium for the protection of the Association and its members as set forth in the Declaration.
- (D) To reconstruct improvements after casualty and to make further improvements of the property as expressly obligated and permitted under the Declaration.
- (E) To make, amend and enforce reasonable rules and regulations governing the use of the common elements and the operation of the Association.
- (F) To approve or disapprove the transfer of ownership, leasing and occupancy of units, as provided by the Declaration.

- (G) To enforce the provisions of the Condominium Act, the Declaration, these Articles, and the Bylaws and any Rules and Regulations of the Association.
- (H) To contract for the operation and maintenance of the Condominium and the Condominium property; to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the law or by the condominium documents to be exercised by the Board of Directors or the membership of the Association.
- (I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium.
- (J) To enter into agreements, or acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities, whether or not the lands or facilities are contiguous to the lands of the Condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the unit owners.
- (K) To own and convey real and personal property.
- (L) To borrow money if necessary to perform its other functions hereunder, as provided by the Declaration.
- (M) Subject to the terms and conditions of the Bylaws of the Association, to sue and be sued and appear and defend all actions and proceedings in its corporate name.

All funds and the title to all property acquired by the Association shall be held in trust for the benefit of members in accordance with the provisions of the Declaration, these Articles of Incorporation and the Bylaws.

### ARTICLE III MEMBERSHIP

- (A) The members of the Association shall consist of all record owners of legal title to one or more units in the Condominium, as further provided in the Declaration and Bylaws.
- (B) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to such member's unit or in compliance with the Declaration.
- (C) The owner of each unit shall only be entitled to one (1) vote per unit in Association matters, as further set forth in the Declaration and the Bylaws. The manner of exercising voting rights shall be as set forth in the Bylaws.

### ARTICLE IV TERM

- (A) The term of the Association shall be perpetual.
- (B) In the event of dissolution, the surface water management system, any portion of the property containing the surface water management system and the water management portions of the common areas shall be conveyed to a local government acceptable to the South Florida Water

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Management District. If the local government declines to accept the conveyance, the surface water management system must be deeded to a similar Florida not-for-profit corporation that will accept responsibility.

## ARTICLE V BYLAWS

The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

## ARTICLE VI DIRECTORS AND OFFICERS

- (A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors. In the absence of a Bylaw provision to the contrary, the Board shall consist of three (3) Directors.
- (B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

## ARTICLE VII INITIAL DIRECTORS AND OFFICERS

The initial Directors of the Association shall be:

<u>Name:</u>	<u>Address:</u>
Albert F. Moscato, Jr.	225 Banyan Boulevard, Suite 240 Naples, FL 34102
David Nassif	225 Banyan Boulevard, Suite 240 Naples, FL 34102
Tim Jaroch	225 Banyan Boulevard, Suite 240 Naples, FL 34102

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SEC. OFFICE  
DATE

The initial officers of the Association shall be:

<u>President</u>	<u>Treasurer &amp; Secretary</u>
David W. Nassif 225 Banyan Boulevard, Suite 240 Naples, Florida 34102	Albert F. Moscato, Jr. 225 Banyan Boulevard, Suite 240 Naples, Florida 34102

## ARTICLE VIII AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

- (A) Prior to the recording of the Declaration in the Public Records, these Articles may be amended by an instrument in writing signed by the President or Vice President of the Association and filed with the Secretary of State of the State of Florida. The instrument amending these Articles shall identify the particular Article or Articles being amended, give the exact language of such amendment and give the date of adoption of the amendment by the Board of Directors. A certified copy of each such amendment shall be attached to any certified copy of these Articles or a certified copy of the Articles as restated to include such amendments and shall be an exhibit to the Declaration upon the recording of such Declaration. This Article is intended to comply with Chapter 617, Florida Statutes.
- (B) After the recording of the Declaration in the Public Records, these Articles may be amended in the following manner:
- (1) Proposal. Amendments to these Articles may be proposed by a majority of the Board or by petition of the owners of at least 1/4th of the units by instrument, in writing, signed by them.
  - (2) Procedure. Upon any amendment or amendments to these Articles being proposed by said Board or unit owners, such proposed amendment or amendments shall be submitted to a vote of the unit owners in accordance with the Bylaws, not later than the next annual meeting for which proper notice can be given.
  - (3) Vote Required. Except as otherwise required for by Florida law, these Articles of Incorporation may be amended by vote of a majority of the voting interests at any annual or special meeting, or by approval in writing of a majority of the voting interests without a meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that the notice contains the full text of the proposed amendment.
  - (4) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy of the amendment in the Public Records of Collier County, Florida, in accordance with Section 718.112(1)(b), Florida Statutes.

## ARTICLE IX INITIAL REGISTERED AGENT AND OFFICE

The initial registered office of the Association shall be Matthew L. Grabinski, Esq. at Coleman, Yovanovich & Koester, P.A., 4001 Tamiami Trail North, Suite 300, Naples, FL 34103. The corporation shall have the right to change such registered agent and office from time to time as provided by law. The registered agent of the Association shall maintain copies of all further permitting actions for the benefit of the Association.

## ARTICLE X INDEMNIFICATION

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him or her in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he or she may be a party because of his or her being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his or her actions or omissions to act were material to the cause adjudicated and involved:

- (A) Willful misconduct or a conscious disregard for the best interest of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his or her action was unlawful or had reasonable cause to believe his or her action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled. The indemnification hereby afforded to Directors and officers shall also extend to any other entity other than the Association found responsible or liable for the actions of such individuals in their capacity as Directors or officers, including, but not limited to the developer of the Condominium and any and all Directors and officers appointed by such developer.

NOW WHEREFORE, the incorporator has caused these presents to be executed this 9<sup>th</sup> day of May, 2017.

I submit this document and affirm that the facts stated herein are true. I am aware that any false information submitted in a document to the Department of State constitutes a third degree felony as provided for in Sec. 817.155, Florida Statutes.

By: 

David W. Nassif

**ACCEPTANCE BY REGISTERED AGENT**

Having been named as registered agent to accept service of process for the above-stated corporation at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and acknowledge that I am familiar with and agree to accept the obligations imposed upon registered agents under the Florida Not-For-Profit Corporation Act.

By: 

Matthew L. Grabinski