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Division of Corporations

Page 1 of 1

Florida Department of State  
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## Electronic Filing Cover Sheet

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## MERGER OR SHARE EXCHANGE

Kum-Mammen Investors, Inc.

Certificate of Status	0
Certified Copy	1
Page Count	05
Estimated Charge	\$78.75

*Merger*

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DIVISION OF CORPORATIONS

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

CRUISE ACQUISITIONS, INC., a Florida corporation, P00000013653

INTO

**KUM-MAMMEN INVESTORS, INC.,** a California corporation not qualified in  
Florida

File date: March 7, 2000

Corporate Specialist: Darlene Connell



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

March 15, 2000

EFILE

SUBJECT: KUM-MAMMEN INVESTORS, INC.  
REF: W00000006122

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

PLEASE CORRECT THE FLORIDA STATUTE NUMBERS WITHIN YOUR DOCUMENT. SECTION 607.1103 AND 607.1109 IS INCORRECT. THE CORRECT STATUTE NUMBERS ARE 607.1101, 607.1105, AND 607.1107. PLEASE CORRECT YOUR DOCUMENT ACCORDINGLY.

Please add an exhibit indicating the titles, names, and addresses of the officers/directors of the surviving corporation.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned. *Don't need*

If you have any questions concerning the filing of your document, please call (850) 487-6906.

Darlene Connell  
Corporate Specialist

FAX Aud. #: H00000010385  
Letter Number: 900A00014388

Division of Corporations - P.O. BOX 6327 Tallahassee, Florida 32314



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

March 8, 2000

PIPER MARBURY RUDNICK & WOLFE  
EFILE

SUBJECT: KUM-MAMMEN INVESTORS, INC.  
REF: W00000006122

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

THE ABOVE CORPORATION IS A CALIFORNIA CORPORATION, NOT QUALIFIED IN FLORIDA. IN THE HEADING OF THE PLAN AND AGREEMENT, IT IS REFERRED TO AS A FLORIDA CORPORATION. PLEASE CORRECT.

WHEN FILING A MERGER IT IS REQUIRED THAT THE ARTICLES OF MERGER AND THE PLAN OF MERGER BE SUBMITTED. PLEASE INCLUDE THE ARTICLES OF MERGER.

THE FIRST PAGE TRANSMITTED IS ILLEGIBLE. IT APPEARS TO BE TITLED OFFICER'S CERTIFICATE.

For each corporation, the document must contain the date of adoption of the plan of merge or share exchange by the shareholders or by the board of directors when no vote of the shareholders is required.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6880.

Karen Gibson  
Corporate Specialist

FAX Aud. #: H00000010385  
Letter Number: 700A00012726

Division of Corporations - P.O. BOX 6327 Tallahassee, Florida 32314

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**ARTICLES OF MERGER OF  
CRUISE ACQUISITIONS, INC. INTO  
KUM-MAMMEN INVESTORS, INC.**

Pursuant to Section 607, of the Florida Business Corporation Act (the "Florida Act") and Sections 1101 and 1103 of the California General Corporation Act (the "California Act"), CRUISE ACQUISITIONS, INC. ("Cruise Acquisitions"), Florida document number P00000013653 and KUM-MAMMEN INVESTORS, INC. ("KMI"), a California corporation, adopt the following Articles of Merger merging CRUISE ACQUISITIONS into KMI:

**ARTICLE 1  
PLAN AND AGREEMENT OF MERGER**

The Plan and Agreement of Merger (the "Plan") is attached.

**ARTICLE 2  
OUTSTANDING SHARES**

ENTITY	CLASS OF SHARES	% VOTE REQUIRED	TOTAL OUTSTANDING SHARES
Cruise Acquisitions, Inc.	Common	51% (majority)	1,000
Kum-Mammen Investors, Inc.	Common	majority	100,000

**ARTICLE 3  
PLAN AND AGREEMENT OF MERGER**

All of the directors and the shareholders of each of CRUISE ACQUISITIONS and KMI approved the Plan by written action in lieu of meeting as of February 14, 2000, in accordance with Sections 607.0704 and 607.0821 of the Florida Act and Sections 603 and 307 of the California Act. The vote of all of the shareholders of each of Cruise Acquisitions and KMI equaled or exceeded the vote required. Cruise Acquisitions is a wholly-owned subsidiary of Bye Bye Now.Com, Inc. ("BBN"). No vote of the shareholders of BBN is required.

**ARTICLE 4  
EFFECTIVE DATE**

The Effective Date of the Merger is upon the date of filing of the Articles of Merger with the Florida Department of State.

**ARTICLE 5  
PRINCIPAL ADDRESS IN CALIFORNIA OF SURVIVOR**

The street address of the principal office of KMI, the surviving entity, in the state, country, or jurisdiction in which it was formed, organized, or incorporated is:

Kum-Mammen Investors, Inc.  
1948 Alpha Avenue.  
S. Pasadena, California 91030

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SECRETARY OF STATE  
TALLAHASSEE FLORIDA

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**ARTICLE 6**  
**AGENT FOR SERVICE OF PROCESS**

KMI, the surviving entity, is deemed to have appointed the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation (Cruise Acquisitions) that is a party to the merger.

**ARTICLE 7**  
**DISSENTING SHAREHOLDERS**

KMI, the surviving entity, has agreed to promptly pay to the dissenting shareholders of each domestic corporation (Cruise Acquisitions) that is party to the merger the amount, if any, to which they are entitled under Section 607.1302 of the Florida Act.

Dated effective as of February 14, 2000.

**CRUISE ACQUISITIONS, INC.**

By: \_\_\_\_\_  
Name: Guy Pepper  
Title: President

**KUM-MADAMEN INVESTORS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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KUM-MAMMEN INVESTORS, INC.**

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PRINCIPAL ADDRESS IN CALIFORNIA OF SURVIVOR**

The street address of the principal office of KMI, the surviving entity, in the state, country, or jurisdiction in which it was formed, organized, or incorporated is:

Kum-Mammen Investors, Inc.  
1948 Alpha Avenue.  
S. Pasadena, California 91030

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**ARTICLE 6**  
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Dated effective as of February 14, 2000.

**CRUISE ACQUISITIONS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**KUM-MAMMEN INVESTORS, INC.**

By: [Signature]  
Name: Kum Mammen  
Title: Sec.



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**PLAN AND AGREEMENT OF MERGER**  
**MERGING CRUISE ACQUISITIONS, INC., a Florida corporation, and**  
**INTO KUM-MAMMEN INVESTORS, INC., a California corporation**

THIS PLAN AND AGREEMENT OF MERGER (the "Plan") is adopted February 14, 2000, by CRUISE ACQUISITIONS, INC., a Florida corporation ("Cruise Acquisitions" or the "Merging Corporation") and KUM-MAMMEN INVESTORS, INC., a California corporation ("KMI" or the "Survivor"). CRUISE ACQUISITIONS and KMI are sometimes referred to as the "Corporations" or a "Corporation."

**BACKGROUND INFORMATION:**

CRUISE ACQUISITIONS is a Florida corporation authorized to issue one thousand (1,000) shares of \$1 par value common stock (the "Cruise Acquisitions Stock"), all of which is issued to and outstanding in the name of Bye Bye Now.Com, Inc. (the "Investor"). KMI is a California corporation, authorized to issue 100,000 shares of no par value common stock (the "KMI Stock"), 100,000 shares of which are issued and outstanding. The Shareholders and Directors of the Corporations deem it advisable to merge CRUISE ACQUISITIONS into KMI on the terms described in the Plan and in accordance with the California General Corporation Law (the "California Act") Florida Business Corporation Act (the "Florida Act").

**OPERATIVE TERMS:**

1. **Constituent Corporations:** The Constituent Corporations are:

<u>Corporation</u>	<u>State of Incorporation</u>	<u>Status</u>
Cruise Acquisitions, Inc.	Florida	Merging Corporation
Kum-Mammen Investors, Inc.	California	Survivor

2. **Merger:** CRUISE ACQUISITIONS will be merged into KMI. Thus, after the merger, CRUISE ACQUISITIONS and KMI will consist solely of KMI, a single corporation. KMI will survive and continue after the merger. The separate existence of CRUISE ACQUISITIONS will cease on the Effective Date of the Merger. All assets and liabilities of the Merging Corporation will become automatically, by operation of law, assets and liabilities of the Survivor.

3. **Articles of Incorporation:** The Articles of Incorporation and Bylaws of the Survivor will continue unchanged after the merger.

4. **Officers and Directors:** The officers and directors of the Merging Corporation will be from and after the merger, the officers and directors of Survivor.

5. **Effective Date:** The merger will become effective on February 14, 2000 (the "Effective Date").

6. **Defined Terms:** Capitalized terms not defined in this Plan will have the meanings ascribed to them in the Agreement and Plan of Reorganization and Stock Purchase Agreement by and among the Investor, KMI, Cruise Acquisitions, Terry Mammen and Arnold Kum (the "Agreement")

7. **Conversion of Stock and Merger Consideration:** The manner of converting shares of stock in the Merger shall be as follows:

(a) All of the shares of KMI Stock issued and outstanding on the Effective Date shall be canceled and cease to exist, and the owners of KMI Stock (the "Owners") shall thereafter cease to have any rights with respect to KMI Stock, except that such owners shall receive from Bye Bye

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Now. Com, Inc. upon the surrender of the certificates representing the KMI Stock on the Effective Date an aggregate of one million five hundred thousand (1,500,000) shares of validly issued, fully paid and nonassessable Series C Convertible Preferred Stock, par value \$.001 per share of Bye Bye Now.Com, Inc. (the "Investor Series C Preferred") and cash consideration in the aggregate amount of two million five hundred thousand dollars (\$2,500,000) (the "Cash Consideration");

(b) The terms and conditions of Investor Series C Preferred that are to be issued by Investor to the Owners are set forth in Investor's Articles of Incorporation, as amended. Investor is contemplating an initial public offering of its common stock, par value \$.001 per share ("Investor Common Stock"), registered in an underwritten offering with the Securities and Exchange Commission of the United States (the "IPO"). Although there can be no assurances that the IPO will be undertaken or completed, the shares of Investor Series C Preferred will automatically convert to shares of Investor Common Stock, on a one for one basis, at the time of the IPO, and will be registered as to resale with the Securities and Exchange Commission in accordance with and pursuant to the terms of the Registration Rights Agreement, restricted as to the time of resale as may be required by the underwriter(s) of the IPO, provided that such restriction is not greater than that imposed with respect to any other holder of Investor Common Stock.

(c) On the Effective Date, each share of KMI Stock held in KMI's treasury shall cease to be outstanding and shall be canceled and retired without payment of any consideration therefore and shall cease to exist.

(d) On the Effective Date, KMI as the Survivor shall issue to the Investor one thousand (1,000) shares of KMI Stock upon receipt, which shall constitute all of the outstanding capital stock of Survivor.

(e) All of the shares of Cruise Acquisitions Stock issued and outstanding on the Effective Date shall be canceled and cease to exist, and the owners of CRUISE ACQUISITIONS Stock shall thereafter cease to have any rights with respect to CRUISE ACQUISITIONS Stock, except that each owner shall receive upon the surrender of the certificates representing the CRUISE ACQUISITIONS Stock one (1) share of KMI Stock for each share of CRUISE ACQUISITIONS Stock owned. After the Effective Date, KMI shall have one thousand (1,000) shares of KMI Stock issued to the Investor, and that will constitute all of the issued and outstanding shares of KMI.

8. **Timing of Payment of Cash Contribution and Adjustments:** The payments described in Section 7(a) shall be scheduled, made and adjusted in accordance with the following:

(a) The Cash Consideration shall be paid to Owners, in equal monthly payments of one hundred fifty thousand dollars (\$150,000) each, without interest, commencing on the one-month anniversary of the Effective Date. Notwithstanding the foregoing, if any monthly payment is not received by Owners when due, or in the event of any delay or failure by Investor to pay any amount or issue any securities required under the Agreement to which this Plan relates, or in the event of a breach or default by Investor of any of the terms or conditions of the Agreement then Owners shall notify Investor of such breach or default by written notice, and Investor shall have fifteen (15) days to cure such breach or default, if such breach or default has not been cured at the end of the fifteen (15) day period, then the entire outstanding balance of the Cash Consideration

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shall become due and payable, without any requirement for notice, demand or presentment, together with interest from the default date at seven percent (7%) per annum and Owners may proceed with any legal or equitable remedies as provided in the Agreement and/or the Ancillary Agreements identified therein.

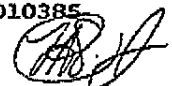
(b) Any aggregate cash held by KMI and Cruise Holidays International, Inc. ("Cruise Holidays") immediately prior to the payment by Cruise Holidays of the amount required pursuant to Section 5.8 of the Agreement, in excess of three hundred thousand dollars (\$300,000), shall be paid to Owners, in equal amounts, at Closing and shall be treated as a reduction of the initial Cash Consideration, but such additional payment shall only be due if, as of the Closing Date, Cruise Holidays has collected its receivables and paid its payables in a manner consistent with its practices for the prior two (2) fiscal years. Such payment shall not cause any adjustment to the amount per month of the monthly payments described in this Section.

(f) Franchisees, employees of franchisees and employees of Cruise Holidays, together with friends and relatives of these individuals, who are "accredited investors," as that term is defined under Regulation D promulgated by the Securities and Exchange Commission of the United States, will be offered the opportunity to purchase shares of Series D Convertible Preferred Stock, par value \$.001 per share, of Investor, at three dollars (\$3.00) per share pursuant to a private placement in accordance with Regulation D. In the event that any such persons purchase said shares in an aggregate amount (the "Amount Invested") in excess of one and one-half million dollars (\$1,500,000), within ninety (90) days of the Closing Date, Investor shall promptly pay such excess to Owners, in equal amounts, and such payment shall be treated as a reduction of the outstanding Cash Consideration, without any adjustment in the amount per month of the monthly payments described in this Section; provided, however, in no event shall the payments described in Subsection (b) and Subsection (c) exceed five hundred thousand dollars (\$500,000) in the aggregate. Investor shall use commercially reasonable efforts to obtain the purchase price from such persons within thirty (30) days of the Closing Date, including, without limitation, placing a deadline date of such purchase that expires at the end of such thirty (30) day period.

(g) At the time of the completion of the Investor's IPO, any remaining payments of the two and one-half million dollars (\$2,500,000) referenced in Subsection 8(a) above shall be immediately due and payable.

(h) If the IPO has not occurred by December 31, 2000 (the "IPO Target Date"), Investor shall, on or before that date, pay to Owners, in equal amounts, the outstanding balance of the Cash Consideration not previously paid.

(i) Commencing on the twelve month anniversary of the Closing, but in no event later than January 31, 2001, and for each month thereafter until the earlier of an IPO or November 30, 2001, as additional consideration for the Merger, Investor shall pay to Owners, in equal amounts, an amount in addition to the Cash Consideration of one hundred thousand dollars (\$100,000) per month. If the IPO has not occurred by the IPO Target Date of December 31, 2001, Investor shall pay to Owners, in equal amounts, an additional sum of two million nine hundred thousand dollars (\$2,900,000) on or before the December 31, 2001 IPO Target Date, as additional consideration for the Merger. If the IPO occurs during the year 2001, Owners shall return to Investor without interest a number of shares of Investor Series C Preferred, valued as if such shares were converted into shares of Investor Common Stock at the IPO price, equal in value to the aggregate



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amount which Investor had paid to Owners under this subparagraph during the year 2001 up to the IPO completion date; but in no event shall Owners be required to return more than two hundred fifty thousand (250,000) shares of Investor Common Stock in order to satisfy such obligation.

(j) In the event that the IPO occurs between January 1, 2002 and December 31, 2002, Owners, in equal amounts, shall sell a number of shares of Investor Common Stock in the IPO equal in value to four million dollars (\$4,000,000) divided by the net IPO sales price (after expenses) per share; but in no event shall Owners be required to sell more than two hundred fifty thousand (250,000) shares of Investor Common Stock in order to satisfy such repayment obligation or otherwise have any obligation to repay such amount. Immediately upon the proceeds from the sale of such shares of Investor Common Stock becoming available to Owners, the proceeds shall be paid to Investor.

(k) At the Closing, Investor shall deliver, pursuant to escrow instructions agreed upon by the parties ("Escrow Instructions"), four hundred thousand (400,000) of the one million five hundred thousand (1,500,000) shares of Investor Series C Preferred issued to the Owners as described in Section 7(b) above, in equal amounts. The Escrow Instructions shall provide, among other things, that if the IPO has been completed by July 31, 2000, the escrowed shares shall be immediately returned to Investor; and further, that if the IPO has not been completed by July 31, 2000, the escrowed shares shall be immediately released to the Owners. The Escrow Instructions shall further provide that Owners shall be entitled to exercise any voting rights and receive any dividends paid with respect to the escrowed shares, unless there is a default by Investor of the terms and obligations of this Agreement, until such escrowed shares shall be released from escrow. In the event Investor defaults under the terms of the Agreement and such default is not cured during the term therein, the escrowed shares should be immediately delivered to Owners.

9. **Further Assurance of Title:** If at any time the Survivor considers or is advised that any acknowledgments or assurance in law or other similar actions are necessary or desirable in order to acknowledge or confirm in and to the Survivor any right, title, or interest of the Merging Corporation held immediately prior to the Effective Date, the Survivor and its proper officers and directors may sign and deliver all such acknowledgments or assurance in law and of all things necessary or proper to acknowledge or confirm such right, title or interest in the Survivor as may be necessary to carry out the purpose of this Plan and the Survivor and its proper officers and directors are fully authorized to take any and all such action in the name of the Merging Corporation or otherwise.

Intending to be bound, the parties sign below:

**CRUISE ACQUISITIONS, INC.**  
a Florida corporation

By: [Signature]  
Name: FRED A. SCHWARTZ  
Title: VP  
Date: 2-14-00

**KUM-MAMMEN INVESTORS, INC.**  
a California corporation

By: [Signature]  
Name: ARNOLD KUM  
Title: PRESIDENT  
Date: 2/14/2000

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