

PO1000069335

CF CORPORATION SYSTEM

FILED

01 JUL 13 PM 1:39

CORPORATION(S) NAME

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

200004474962--8
-07/13/01--01045--021
*****70.00 *****70.00

BOCEP, Inc.

200004474962--8
-07/13/01--01045--022
*****8.75 *****8.75

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<input type="checkbox"/> Nonprofit		
<input type="checkbox"/> Foreign	<input type="checkbox"/> Dissolution/Withdrawal	<input type="checkbox"/> Mark
	<input type="checkbox"/> Reinstatement	
<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Annual Report	<input type="checkbox"/> Other
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	<input type="checkbox"/> Fictitious Name	<input type="checkbox"/> UCC
<input type="checkbox"/> Certified Copy	<input type="checkbox"/> Photocopies	<input checked="" type="checkbox"/> CUS
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<input checked="" type="checkbox"/> Walk In	<input type="checkbox"/> Will Wait	<input checked="" type="checkbox"/> Pick Up
<input type="checkbox"/> Mail Out		

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01 JUL 13 PM 12:50
DIVISION OF CORPORATION

Name _____
Availability _____
Document _____
Examiner _____
Updater _____
Verifier _____
W.P. Verifier _____

7/13/01

Order#: 4617724

FILE FIRST

Ref#: _____

Amount: \$ _____

660 East Jefferson Street
Tallahassee, FL 32301
Tel. 850 222 1092
Fax 850 222 7615

J. BRYAN JUL 13 2001

**ARTICLES OF INCORPORATION
OF
BOCEP, INC.**

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01 JUL 13 PM 1:39
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to Chapter 607 of the Florida Statutes, the undersigned incorporator hereby submits these Articles of Incorporation and states as follows:

1. Name. The name of the corporation is BOCEP, Inc. (the "Corporation").
2. Principal Place of Business. The principal place of business and mailing address of the Corporation is:
9801 International Drive
Orlando, Florida 32819
3. Purpose. The purpose or purposes for which this Corporation is formed is limited solely to (a) being a Special Purpose General Partner of BOCEP Venturers Ltd, a Florida limited partnership (the "Partnership"); (b) acting as, and exercising all of the authority of, a general partner of the Partnership; and (c) transacting any and all lawful business for which a corporation may be organized under the laws of the State of Florida that is incident, necessary and appropriate to accomplish the foregoing.
4. Authorized Shares. The Corporation is authorized to issue one thousand (1,000) shares of no par value common capital stock.
5. Registered Office and Agent. The name and Florida street address of the registered agent is:

CT Corporation System
1200 South Pine Island Road
Plantation, Florida 33324
6. Incorporator. The name and address of the Incorporator is:

Raymond M. Shainberg
80 Monroe Avenue
Suite 700
Memphis, Tennessee 38103
7. No Cumulative Voting. There shall be no cumulative voting rights accruing to any stock holder of the Corporation.
8. Limitation of Liability. To the extent allowed by the laws of the State of Florida, no present or future director of the Corporation (or his or her estate, heirs and personal representatives) shall be liable to the Corporation or its shareholders for

monetary damages for breach of fiduciary duty as a director of the corporation. Any liability of a director (or his or her estate, heirs and personal representatives) shall be further eliminated or limited to the fullest extent allowed by the laws of the State of Florida, as may hereinafter be adopted or amended.

9. Indemnification. With respect to claims or liabilities arising out of services as a director or officer of the Corporation, the Corporation shall indemnify and advance expenses to such present and future director or officer (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the bylaws of the Corporation and the State of Florida, as may hereafter be adopted or amended.

10. Bankruptcy Remote Provisions.

(a) The Corporation is required to continue serving in the capacity of the sole general partner of the Partnership so long as a loan in an amount not to exceed One Hundred Twenty Million Dollar (\$120,000,000) (the "Mortgage Loan") from Morgan Guaranty Trust Company of New York (such entity and its successors and assigns is herein referred to as "Mortgage Lender") is outstanding.

(b) During such time as the Mortgage Loan is outstanding, the Corporation shall always have at least one (1) Independent Director. "Independent Director" shall mean a director of the Corporation who is not at the time of initial appointment, has not been at any time during the preceding five (5) years and shall not be at any time while serving as such director either (a) a shareholder (or other equity owner), director, officer, employee, partner, attorney or counsel of the Corporation, the Partnership or any affiliates, shareholders, partners, members, subsidiaries of either the Corporation or the Partnership; (b) a customer, or supplier to the Corporation, the Partnership or any affiliates, shareholders, partners, members, subsidiaries of either the Corporation or the Partnership; (c) a person or other entity controlling or under common control with any such shareholder, officer, director, partner, customer, or employee supplier; or (d) a member of the immediate family of any such shareholder, officer, director, partner, customer, or employee supplier. (As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise.)

(c) During such time as the Mortgage Loan is outstanding the Corporation is prohibited from:

(i) Incurring indebtedness, except with respect to indebtedness of the Partnership incurred by the Corporation in its capacity as a general partner of the Partnership.

(ii) Engaging in any dissolution, liquidation, consolidation, merger or sale of assets or causing the Partnership to engage in any of the foregoing.

(iii) Entering into transactions with affiliates which are not at arm's length nor on commercially reasonable terms.

(iv) Except as permitted by the loan documents entered into in connection with the Mortgage Loan, transferring any direct or indirect ownership interest in the Corporation such that the transferee owns, in the aggregate with the ownership interest of its affiliates and family members in the Corporation, more than a forty-nine percent (49%) interest in the Corporation, unless approved by the Mortgage Lender.

(v) Amending its organizational documents without the consent of the Mortgage Lender.

(vi) Taking any action under any of its organizational documents that requires a unanimous vote of the board of directors of the Corporation unless at the time of such vote there is at least one director who is an Independent Director.

(d) During such time as the Mortgage Loan is outstanding, the Corporation covenants to the Partnership and the Mortgage Lender, on its own behalf and as required to cause the Partnership, as applicable:

(i) Not to engage in any business or activity other than the ownership, operation and maintenance of a full service hotel commonly known as Peabody Orlando, Orlando, Florida (the "Property"), and activities incidental thereto;

(ii) Not to acquire or own any assets other than (A) the Property, and (B) such incidental personal property as may be necessary for the operation of the Property;

(iii) Not to merge into or consolidate with any person or entity, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;

(iv) To observe all organizational formalities, to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under applicable law of the jurisdiction of its organization or formation, and not to amend, modify, terminate or fail to comply with the provisions of its organizational documents;

(v) Not to own any subsidiary, or make any investment in, any person or entity;

(vi) Not to commingle its assets with the assets of any other person or entity;

(vii) Not to incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Mortgage Loan, unsecured trade payables and unsecured equipment leases (both of which must be incurred in the ordinary course of business relating to the ownership and operation of the Property) provided the same (x) do not exceed at any time in the aggregate a maximum amount of four percent (4%) of the outstanding principal amount of the Mortgage Loan, and (y) are paid within sixty (60) days after the date incurred;

(viii) To maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other person or entity;

(ix) Not to enter into any contract or agreement with any general partner, member, shareholder, principal or affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(x) Not to maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other person or entity;

(xi) Not assume or guaranty the debts of any other person or entity, not hold itself out to be responsible for the debts of any other person or entity, or otherwise pledge its assets for the benefit of any other person or entity, and not hold out its credit as being available to satisfy the obligations of any other person or entity;

(xii) Not make any loans or advances to any person or entity;

(xiii) To file its own tax returns (unless prohibited by applicable law from doing so);

(xiv) To hold itself out to the public as a legal entity separate and distinct from any other person or entity, conduct its business solely in its own name and correct any known misunderstanding regarding its separate identity;

(xv) To maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(xvi) Not, without the unanimous written consent of all of its partners and the written consent of 100% of the members of the board of

directors of this Corporation, including without limitation the Independent Director, (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any bankruptcy, insolvency, creditor's rights or similar laws or regulations, (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;

(xvii) To allocate shared expenses (including, without limitation, shared office space) and to use separate stationery, invoices and checks;

(xviii) To pay its own liabilities (including, without limitation, salaries of its own employees) from its own funds;

(xix) Not acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable, and

(xx) Not to violate or cause to be violated the assumptions made with respect to the Partnership and this Corporation in any opinion letter pertaining to substantive consolidation delivered to Mortgage Lender with the Mortgage Loan.

(e) During such time as the Mortgage Loan is outstanding, the unanimous consent of all of the directors of the Corporation (including, without limitation, the Independent Director) is required for the Corporation to and for the Corporation to cause the Partnership to:

(i) File or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; institute any proceedings under any applicable insolvency law or otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally;

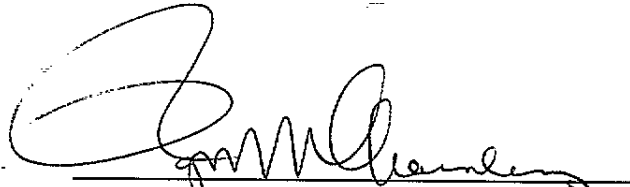
(ii) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or the Partnership or a substantial portion of either of their properties;

(iii) Make any assignment for the benefit of the creditors of the Corporation or the Partnership;

(iv) Take any action that might cause the Corporation or the Partnership to become insolvent; or

(v) Take any action in furtherance of any of the foregoing.

DATED this 13th day of July, 2001.


Raymond M. Shainberg, Incorporator

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

Convin Bryan
Registered Agent

7/13/01
Date

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA