

Di SEP. 30. 2004 1:45 PM

GREENBERG TRAURIG

10/04/04 P. 3a

P04000115004

Florida Department of State  
Division of Corporations  
Public Access System

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.**

(((H04000194117 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) 205-0380

From:

Account Name : GREENBERG TRAURIG (ORLANDO)  
Account Number : 103731001374  
Phone : (407) 418-2435  
Fax Number : (407) 420-5909

**MERGER OR SHARE EXCHANGE**

**COVE REAL PROPERTIES, INC.**

Certificate of Status	0
Certified Copy	0
Page Count	03
Estimated Charge	\$70.00

RECEIVED  
04 SEP 30 PM 1:45  
DIVISION OF CORPORATIONS

04 SEP 28 PM 4:50  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Electronic Filing Menu

Corporate Filing

Public Access Help

Merger  
10/04/04  
DC

SEP. 30. 2004 1:23PM

GREENBERG TRAURIG

NO. 051 P. 1

# Greenberg Traurig

## Transmittal Cover Sheet

To:	Fax No:	Company:	Phone No.:
Division of Corporations	850-205-0380	Florida Department of State	

From:  
Marion M. Baker

Tel:  
407.418.2409

E-Mail:  
BAKERM@gtlaw.com

File No.: 20253.010500

Re: Certificate of Merger (((H04000194117 3)))

Date: September <sup>30</sup> 28, 2004 <sup>12:22</sup> 03:48 PM

No. Pages: Including Cover Sheet <sup>5</sup> //

If you do not receive all pages properly, please call (407)420-1000, Ext. 357.

**Notes:** Attached please find a Certificate of Merger of The Cove Marina & Restaurant, Inc. into Cove Real Properties, Inc. with an effective date of September 26, 2004. Kindly attend to filing the same with said effective date.

Also sent via: ☐ US Mail ☐ Overnight ☐ Messenger ☐ Email ☒ No Other

The information contained in this transmission is attorney privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect and return the original message to us at the address below via the U.S. Postal Service. We will reimburse you for your postage. Thank you.

450 South Orange Avenue, Suite 650, Orlando, Florida 32801 Phone: 407.420.1000 Fax: 407.420.5909

**FAXED**

SEP. 30. 2004 1:23PM

GREENBERG TRAURIG

PAGE 001/001

FILE NO. 051 P. 2



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood  
Secretary of State

September 29, 2004

COVE REAL PROPERTIES, INC.  
641 S.W. 16TH STREET  
BOCA RATON, FL 33486

SUBJECT: COVE REAL PROPERTIES, INC.  
REF: P04000115004

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.

ARTICLES OF MERGER ALONG WITH A PLAN OF MERGER MUST BE SUBMITTED IN ORDER TO FILE YOUR DOCUMENT.

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) 245-6906.

Darlene Connell  
Document Specialist

FAX Aud. #: H04000194117  
Letter Number: 004A00056909

**ARTICLES OF MERGER**  
of  
**THE COVE MARINA & RESTAURANT, INC.**  
(a Florida corporation)  
and  
**COVE REAL PROPERTIES, INC.,**  
(a Florida corporation)

04 SEP 28 PM 4:50  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to Section 607.1105 of the Florida Business Corporation Act (the "Act"), the undersigned domestic corporations adopt the following Articles of Merger:

**FIRST:** Attached hereto as Exhibit A and made a part hereof is the Agreement and Plan of Merger for merging THE COVE MARINA & RESTAURANT, INC. with and into COVE REAL PROPERTIES, INC. (the "Merger").

**SECOND:** COVE REAL PROPERTIES, INC. will continue in existence as the surviving corporation under its present name pursuant to the provisions of the Act.

**THIRD:** The Agreement and Plan of Merger was approved and adopted by the shareholders of THE COVE MARINA & RESTAURANT, INC., by unanimous written consent dated as of August 18, 2004 in accordance with the provisions of Section 607.0704 of the Act; and approved and adopted by a majority of the shareholders of COVE REAL PROPERTIES, INC., by written consent dated as of August 18, 2004 in accordance with the provisions of Section 607.0704 of the Act.

**FOURTH:** The effective date of the Merger contemplated hereby shall be September 26, 2004.

**IN WITNESS WHEREOF,** each of the undersigned corporations has caused these Articles of Merger to be executed on its behalf as of August 18, 2004.

THE COVE MARINA & RESTAURANT, INC.,  
a Florida corporation

By: 

J. Kenneth Gulden, President

COVE REAL PROPERTIES, INC.,  
a Florida corporation

By: 

J. Kenneth Gulden, President

### AGREEMENT AND PLAN OF MERGER

**THIS AGREEMENT AND PLAN OF MERGER** (this "Agreement") is made and entered into as of the 26th day of September, 2004, by and between THE COVE MARINA & RESTAURANT, INC., a Florida corporation ("CMR"), and COVE REAL PROPERTIES, INC., a Florida corporation ("CRP" or the "Surviving Corporation" and collectively with CMR, the "Corporations"), with CMR merging with and into CRP, such that the separate existence of CMR shall cease and CRP shall continue as the surviving corporation (the "Merger").

### RECITALS:

**WHEREAS**, the Boards of Directors and the shareholders of the Corporations deem it advisable and in the best interests of the Corporations and shareholders to merge the Corporations; and

**WHEREAS**, it is the intention of the parties hereto that the Merger shall constitute a tax-free reorganization, as defined in Section 368 of the Internal Revenue Code of 1986, as amended, and that this Agreement and Plan of Merger shall also constitute a Plan of Reorganization.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I

#### MERGER

1.1 **The Merger.** Upon the terms and subject to the conditions hereof, and in accordance with the relevant provisions of the Florida Business Corporation Act ("FBCA"), CMR shall be merged with and into CRP. Following the Merger, CRP shall continue as the surviving corporation and shall continue its existence under the laws of the State of Florida, and the separate corporate existence of CMR shall cease.

1.2 **Effective Date and Effective Time.** Articles of Merger with respect to the Merger shall be executed, delivered and filed with the Secretary of State of the State of Florida in accordance with the provisions of the FBCA. The Merger shall be effective immediately upon filing the Articles of Merger with the Secretary of State of the State of Florida (the date and time of filing being referenced to herein as the "Effective Date" and the "Effective Time," respectively).

1.3 **Effect of the Merger.** At the Effective Time and without any further action on the part of the Surviving Corporation, the Surviving Corporation shall thereupon and thereafter possess all the rights, privileges, powers and franchises of a public as well as of a private nature, of each of the Corporations, and be subject to all the restrictions, disabilities and duties of each of the Corporations so merged; and all of the rights, privileges, powers and franchises of each of the Corporations, and all property, real, personal and mixed, and all debts due to either of the Corporations on whatever account, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises and all and every other interest shall be thereafter the property of the Surviving Corporation as they were of the Corporations; and the title to any real estate, vested by deed or otherwise, under the laws of the State of Florida or otherwise, in either of the Corporations, shall not revert or in any way be impaired by reason of the Merger; provided, that all debts, liabilities and duties of the Corporations, and all rights of creditors and all liens upon any property of either of the Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

1.4 Articles of Incorporation and Bylaws of Surviving Corporation. From and after the Effective Time, the Articles of Incorporation of CRP substantially in the form attached thereto as Exhibit "A" (the "Articles"), and the bylaws of CRP in effect immediately prior to the Effective Time, shall be the Articles and bylaws, respectively, of the Surviving Corporation, unless and until altered, amended or repealed as provided in the Articles or such bylaws.

1.5 Directors and Officers of Surviving Corporation. The directors and officers of CRP immediately prior to the Effective Time shall be the directors and officers, respectively, of the Surviving Corporation and will hold such office from the Effective Time until their respective successors are duly elected and qualified in the manner provided in the Articles and bylaws of the Surviving Corporation, or as otherwise provided by law.

## ARTICLE II

### CONVERSION AND EXCHANGE OF SECURITIES

2.1 Conversion of Common Stock. At the Effective Time, by virtue of the Merger and without any further action on the part of CRP, CMR, or the shareholders of CMR, the outstanding shares of common stock of CMR ("CMR Common Stock") shall be converted into corresponding shares of common stock of Cove New Co., Inc., a Florida corporation.

2.2 Effect of Share Conversion. At the Effective Time, all shares of CMR Common Stock converted pursuant to this Article II shall cease to be outstanding and shall automatically be cancelled and retired, and shall cease to exist, and each such certificate (a "Certificate") previously evidencing CMR Common Stock, respectively, outstanding immediately prior to the Effective Time shall thereafter represent the right to receive a certificate evidencing shares of common stock of Cove New Co., Inc. into which such CMR Common Stock were converted in the Merger pursuant to this Article II. At the Effective Time, all shares of capital stock of CMR shall automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

2.3 Surrender of Certificates. After the Effective Time, each holder of a Certificate of CMR immediately prior to the Effective Time shall surrender same to the Surviving Corporation and shall receive in exchange therefore a new certificate, representing the appropriate number of shares of common stock in Cove New Co., Inc. Until so surrendered, each Certificate shall, by virtue of the Merger, be deemed for all purposes to evidence ownership of the appropriate number of shares of common stock of Cove New Co., Inc.

## ARTICLE III

### CONDITIONS

The obligations of each party hereto to perform this Agreement and to consummate the transaction contemplated hereby shall be subject to the following:

3.1 Shareholder Approval. The approval and adoption by the shareholders of both CMR and CRP holding at least a majority of the outstanding voting capital stock, respectively.

**ARTICLE IV**  
**MISCELLANEOUS**

4.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to the conflicts of law rules thereof.

4.2 **Headings.** The headings in this Agreement are inserted for convenience only and shall not constitute a part hereof.

4.3 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, then the remaining provisions of this Agreement, as applicable, if capable of substantial performance, shall remain in full force and effect.

4.4 **Third Party Beneficiaries.** This Agreement is not intended to confer upon any other person or entity, other than the parties hereto, any rights or remedies.

4.5 **Authorization.** The Boards of Directors and the proper officers of the Corporations are hereby authorized, empowered, and directed to do any and all acts and things, and to make, execute, deliver, file, and/or record any and all instruments, papers, and documents which shall be or become necessary, proper, or convenient to effectuate or consummate any of the provisions of this Agreement or of the Merger herein provided for.

4.6 **Modification or Amendment.** Subject to the applicable provisions of the FBCA, at any time prior to the approval of this Agreement by the shareholders of CMR, the parties hereto may modify or amend this Agreement by mutual written agreement executed and delivered by duly authorized officers or representatives of the respective parties.

4.7 **Termination.** This Agreement may be terminated and abandoned by the mutual consent of the Boards of Directors of the Corporations at any time before the Effective Date, whether before or after approval of this Agreement by the shareholders of CMR.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement and Plan of Merger to be executed on its behalf and attested by its officers thereunto duly authorized, all as of the date first above written.

THE COVE MARINA & RESTAURANT, INC.,  
a Florida corporation

By: 

J. Kenneth Gulden, President

COVE REAL PROPERTIES, INC.  
a Florida corporation

By: 

J. Kenneth Gulden, President

OCT. 4. 2004 10:55AM

GREENBERG TRAURIG

NO. 279 P. 2

((H04000194117 3)))

**CERTIFICATE OF MERGER  
OF  
THE COVE MARINA & RESTAURANT, INC.  
INTO  
COVE REAL PROPERTIES, INC.**

**Under Section 904 of the Business Corporation Law**

It is hereby certified upon behalf of each of the constituent corporations herein named, as follows:

FIRST: The Board of Directors of each of the constituent corporations has duly adopted a plan and agreement of merger (the "Plan of Merger") setting forth the terms and conditions of the merger of said corporations on the dates set forth below:

Name of Corporation

Date of Adoption

The Cove Marina & Restaurant, Inc.

September 26, 2004

Cove Real Properties, Inc.

September 26, 2004

SECOND: The name of the constituent corporation which is to be the surviving corporation, and which is hereinafter sometimes referred to as the "Surviving Constituent Corporation," is Cove Real Properties, Inc. Its certificate of incorporation was filed with the Department of State on August 5, 2004.

THIRD: The name of the other constituent corporation, which is being merged into the Surviving Constituent Corporation, and which is hereinafter sometimes referred to as the "Merged Constituent Corporation", is The Cove Marina & Restaurant, Inc. (the "Company"). Its certificate of incorporation was filed with the Department of State on September 9, 1976.

FOURTH: As to each constituent corporation, the designation and number of outstanding shares of each class and series, the specification of the classes and series entitled to vote on the Plan of Merger, and the specification of each class and series entitled to vote as a class on the Plan of Merger, are as follows:

**COVE REAL PROPERTIES, INC.**

<u>Designation of each outstanding class and series of shares</u>	<u>Number of outstanding shares of each class</u>	<u>Class or series of shares entitled to vote</u>	<u>Classes and series entitled to vote as a class</u>
Common Stock	25	Yes	None

**THE COVE MARINA & RESTAURANT, INC.**

((H04000194117 3)))



(((H04000194117 3)))

Class or series of shares entitled to vote	Number of outstanding shares of each class	Class or series of shares entitled to vote	Classes and series entitled to vote as a class
Common Stock	25	Yes	None

FIFTH: The merger herein certified was authorized in respect of Cove Real Properties, Inc. by the unanimous written consent of the holder of all outstanding shares of such corporation entitled to vote on the Plan of Merger on September 26, 2004. The merger herein certified was authorized in respect of The Cove Marina & Restaurant, Inc. by the unanimous written consent of the holders of all outstanding shares of such corporation entitled to vote on the Plan of Merger on September 26, 2004.

SIXTH: The effective date of this Merger is September 26, 2004.

(((H04000194117 3)))

SEP. 30. 2004 1:24PM

GREENBERG TRAURIG

NO. 051 P. 6

((H04000194117 3))

IN WITNESS WHEREOF, we have subscribed this document on the date set opposite each of our names below and do hereby affirm, under the penalties of perjury, that the statements contained therein have been examined by us and are true and correct.

COVE REAL PROPERTIES, INC.

Date: September 26, 2004

By: 

Name: J. Kenneth Gulden

Title: President

THE COVE MARINA & RESTAURANT, INC.

Date: September 26, 2004

By: 

Name: J. Kenneth Gulden

Title: President

05-JN01\FIELD\SRS371481\01URWZP01\_DOC\890420237.010500

((H04000194117 3))