

PH100043972  
Jun 14 2011 3:32PM Buchanan Ingersoll & Rooney LLP No. 0410 P. 1  
Division of Corporations Page 1 of 1

Florida Department of State  
Division of Corporations  
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To: Division of Corporations  
Fax Number : (850) 617-6380

From: Account Name : BUCHANAN INGERSOLL PROFESSIONAL CORPORATION  
Account Number : I20030000049  
Phone : (305) 933-5605, ATTN: Barbara Williams  
Fax Number : (305) 933-2350

**\*\*Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.\*\***

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2011 JUN 14 AM 10:11  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**COR AMND/RESTATE/CORRECT OR O/D RESIGN  
OTP MANAGERS, INC,**

Certificate of Status	1
Certified Copy	1
Page Count	11
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6/15/11

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Buchanan Ingersoll & Rooney LLP

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LLC# 110001583593))

**COVER LETTER**

**TO:** Amendment Section  
Division of Corporations

**NAME OF CORPORATION:** OTP MANAGERS, INC.

**DOCUMENT NUMBER:** P11000043972

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

RICHARD N. SCHERMER, ESQ./BARBARA WILLEN, CLA, FRP

Name of Contact Person

BUCHANAN INGERSOLL & ROONEY, P.C.

Firm/ Company

19950 WEST COUNTRY CLUB DRIVE, SUITE 101

Address

AVENTURA, FLORIDA 33180

City/ State and Zip Code

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

For further information concerning this matter, please call:

BARBARA R. WILLEN, CLA, FRP

Name of Contact Person

at ( 305 )

933-5605

Area Code & Daytime Telephone Number

~~Enclosed is a check for the following amount made payable to the Florida Department of State:~~

**ELECTRONIC FILING**

☐ \$35 Filing Fee

☒ \$43.75 Filing Fee &  
Certificate of Status

☒ \$43.75 Filing Fee &  
Certified Copy  
(Additional copy is enclosed)

☐ \$52.50 Filing Fee  
Certificate of Status  
Certified Copy  
(Additional Copy is enclosed)

**Mailing Address**

Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**Street Address**

Amendment Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

LLC# 110001583593))

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Buchanan Ingersoll & Rooney LLP

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FILED

Articles of Amendment  
to  
Articles of Incorporation  
of

2011 JUN 14 AM 10:11

OTP MANAGERS, INC.

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

(Name of Corporation as currently filed with the Florida Dept. of State)

P11000043972

(Document Number of Corporation (if known))

Pursuant to the provisions of section 607.1006, Florida Statutes, this *Florida Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

A. If amending name, enter the new name of the corporation:

N/A

*The new name must be distinguishable and contain the word "corporation," "company," or "incorporated" or the abbreviation "Corp.," "Inc.," or "Co.," or the designation "Corp.," "Inc.," or "Co.". A professional corporation name must contain the word "chartered," "professional association," or the abbreviation "P.A."*

B. Enter new principal office address, if applicable:

N/A

(Principal office address MUST BE A STREET ADDRESS)

C. Enter new mailing address, if applicable:

N/A

(Mailing address MAY BE A POST OFFICE BOX)

D. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address:

Name of New Registered Agent:

N/A

New Registered Office Address:

N/A

(Florida street address)

N/A

(City)

Florida N/A

(Zip Code)

New Registered Agent's Signature, if changing Registered Agent:

*I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.*

N/A

Signature of New Registered Agent, if changing

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If amending the Officers and/or Directors, enter the title and name of each officer/director being removed and title, name, and address of each Officer and/or Director being added:  
(Attach additional sheets, if necessary)

<u>Title</u>	<u>Name</u>	<u>Address</u>	<u>Type of Action</u>
<u>D</u>	<u>JORGE LINKEWER</u>	<u>18205 BISCAYNE BLVD.</u> <u>SUITE 2202</u> <u>AVENTURA, FL 33180</u>	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove
<u>D</u>	<u>DANIEL HALBERSTEIN</u>	<u>18205 BISCAYNE BLVD.</u> <u>SUITE 2202</u> <u>AVENTURA, FL 33180</u>	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove
<u>D</u>	<u>JACOB SERFATI</u>	<u>18205 BISCAYNE BLVD.</u> <u>SUITE 2202</u> <u>AVENTURA, FL 33180</u>	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove

(See attached sheet for additional three (3) Directors to be added in addition to the above three (3) names.)

E. If amending or adding additional Articles, enter change(s) here:  
(attach additional sheets, if necessary). (Be specific)

(see attached Articles of Restatement for Articles of Incorporation and  
Amendment of Article III and addition of Articles IX, X, XI, XII, XIII and XIV on additional  
attached 6 pages of text)

F. If an amendment provides for an exchange, reclassification, or cancellation of issued shares,  
provisions for implementing the amendment if not contained in the amendment itself:  
(if not applicable, indicate N/A)

N/A

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[additional attached sheet for additional three (3) Directors added as of May<sup>29</sup>, 2011]

TITLE	NAME AND ADDRESS	TYPE OF ACTION
Director	MARIO GROSFELD 18205 BISCAYNE BOULEVARD, SUITE 2202 AVENTURA, FLORIDA 33160	ADD
Director	HERNAN LEONOFF 18205 BISCAYNE BOULEVARD, SUITE 2202 AVENTURA, FLORIDA 33160	ADD
Director	THOMAS M. STRAUSS WILMINGTON TRUST COMPANY RODNEY SQUARE NORTH 1100 NORTH MARKET STREET WILMINGTON, DELAWARE 19890	ADD

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ARTICLES OF RESTATEMENT AND AMENDMENT

TO ARTICLES OF INCORPORATION

OF

OTP MANAGERS, INC. (the "Corporation")

Pursuant to the provision of Section 607.1006, Florida Statutes, this Florida Profit Corporation restates its Articles of Incorporation filed as of May 6, 2011, except as set forth below, and adopts the following amendments to its Articles of Incorporation as follows:

ARTICLE III of the Articles of Incorporation is hereby deleted in its entirety and restated as follows.

ARTICLE III

A. The purposes for which the Corporation is organized are limited solely to: (a) being the sole managing member of a single purpose limited liability company known as OTP CAPITAL, LLC, a Florida limited liability company (the "Borrower LLC") that owns certain property (the "Property") pursuant to the terms and conditions of the operating agreement of the Borrower LLC (the "Borrower LLC Operating Agreement"), and (b) acting as, and exercising all of the authority of, the sole managing member of the Borrower LLC. For as long as the Loan Documents (as hereinafter defined) remain outstanding, the Corporation shall continue to act as the sole managing member of the Borrower LLC; and the Corporation shall be prohibited from incurring indebtedness of any kind except in its capacity as managing member of Borrower LLC for mortgage loan and other indebtedness (the "Indebtedness") incurred under loan documents in favor of Column Financial, Inc., and its successor and assigns (the "Loan Documents") with respect to the Indebtedness and trade payables incurred in the ordinary course of business.

ARTICLES IX, X, XI, XII, XIII and XIV are hereby added as follows to the Articles of Incorporation:

ARTICLE IX

The Board of Directors is expressly authorized to adopt, amend, or repeal the By-Laws of the Corporation under the conditions set forth in the By-Laws.

ARTICLE X

Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall otherwise provide.

ARTICLE XI

A director or officer of the Corporation shall not be personally liable to the Corporation

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or its stockholders for monetary damages for breach of fiduciary duty as a director; provided, however, that the foregoing shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under General Corporation Law of Florida or (iv) for any transaction from which the director of the Corporation derived an improper financial benefit. If the General Corporation Law of Florida is hereafter amended to permit further elimination of or limitation of the personal liability of directors, the liability of the director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of Florida as so amended. Any repeal or modification of this Article XI by the stockholders of the Corporation or otherwise shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

#### ARTICLE XII

The following provisions regulate the internal affairs of the Corporation:

1. A unanimous vote of the Board of Directors, including the Independent Director/Manager, is required to take or cause the Borrower LLC to take any of the following actions:
  - (a) causing the Corporation or the Borrower LLC to become insolvent;
  - (b) commencing any case, proceeding or other action on behalf of the Corporation or the Borrower LLC under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors;
  - (c) instituting proceedings to have the Corporation or the Borrower LLC adjudicated as bankrupt or insolvent;
  - (d) consenting to the institution of bankruptcy or insolvency proceedings against the Corporation or the Borrower LLC;
  - (e) filing a petition or consent to a petition seeking reorganization arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the Corporation or the Borrower LLC of its debts under any federal or state law relating to bankruptcy;
  - (f) seeking or consenting to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or the Borrower LLC or a substantial portion of the properties of the Corporation or the Borrower LLC;
  - (g) making any assignment for the benefit of the Corporation's or the

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Borrower LLC's creditors; or

- (h) taking any action or causing the Corporation or the Borrower LLC to take any action in furtherance of any of the foregoing;

2. For so long as the Indebtedness is outstanding, the Corporation shall not:

- (a) amend the Certificate of Incorporation;
- (b) engage in any business activity other than as set forth in Article III;
- (c) withdraw as a managing member of the Borrower LLC;
- (d) dissolve, liquidate, consolidate, merge, or sell all or substantially all of the Corporation's assets or cause the Borrower LLC to dissolve, liquidate, consolidate, merge, or sell all or substantially all of its assets;
- (e) transfer its interest or a portion thereof in the Borrower LLC, except as expressly permitted under the Loan Documents executed in connection with the Indebtedness; or
- (f) upon the commencement of a voluntary or involuntary bankruptcy proceeding by or against the Corporation or the Borrower LLC, the Corporation shall not seek a supplemental stay or otherwise pursuant to Section 105 or any other provision of Title 11, United States Code, or any other debtor relief law (whether statutory, common law, case law, or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, to stay, interdict, condition, reduce or inhibit the ability of Lender to enforce any rights of Lender against any guarantor or indemnitor of the secured obligations or any other party liable with respect thereto by virtue of any indemnity, guaranty or otherwise.

3. The Corporation shall, and the Corporation shall require the Borrower LLC to:

- (a) not commingle its assets with those of any other entity and hold its assets in its own name;
- (b) conduct its own business in its own name;
- (c) maintain bank accounts, books, records, accounts and financial statements separate from any other entity;
- (d) maintain its books, records, resolutions and agreements as official records and separate from any other entity;

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- (e) be solvent and pay its own liabilities out of its own funds;
- (f) maintain adequate capital in light of contemplated business operations;
- (g) observe all corporate or other organizational formalities;
- (h) maintain an arm's length relationship with its affiliates;
- (i) pay the salaries of its own employees and maintain a sufficient number of employees in light of contemplated business operations;
- (j) not guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of others;
- (k) not acquire obligations or securities of affiliates or shareholders;
- (l) not make loans to any other person or entity;
- (m) allocate fairly and reasonably any overhead for shared office space;
- (n) use separate stationery, invoices, and checks;
- (o) not pledge its assets for the benefit of any other entity;
- (p) hold itself out as a separate entity and correct any known misunderstanding regarding its separate identity;
- (q) not identify itself or any of its affiliates as a division or part of the other; and
- (r) will file its own tax returns.

4. The Board of Directors is to consider the interests of the Corporation's creditors and the Borrower LLC's creditors in connection with all corporate actions.

#### ARTICLE XIII

For so long as the Indebtedness is outstanding, the Board of Directors of the Corporation shall include one (1) Independent Director. As used herein, the term "Independent Director" shall mean a natural Person who (a) is not at the time of initial appointment, or at any time while serving in such capacity, and is not, and has never been, and will not while serving as Independent Director be: (i) a stockholder, director (with the exception of serving as the Independent Director of the Corporation), officer, employee, partner, member (other than a "special member" or "springing member"), manager, attorney or counsel of the Corporation or Borrower LLC, equity owners of the Corporation or Borrower LLC or guarantor or indemnitor of the Indebtedness ("Indemnitor") or any affiliate of the Corporation or Borrower LLC or Indemnitor; (ii) a customer, supplier or other person who derives any of its purchases or revenues

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from its activities with the Corporation or Borrower LLC or Indemnitor, equity owners of the Corporation or Borrower LLC or Indemnitor or any affiliate of the Corporation or Borrower LLC or Indemnitor; (iii) a Person Controlling or under common Control with any such stockholder, director, officer, employee, partner, member, manager, attorney, counsel, equity owner, customer, supplier or other Person; or (iv) a member of the immediate family of any such stockholder, director, officer, employee, partner, member, manager, attorney, counsel, equity owner, customer, supplier or other Person and (b) has (i) prior experience as an independent director or independent manager for a corporation, a trust or limited liability company whose charter documents required the unanimous consent of all independent directors or independent managers thereof before such corporation, trust or limited liability company could consent to the institution of bankruptcy or insolvency proceedings against it or could file a petition seeking relief under any applicable federal or state law relating to bankruptcy and (ii) at least three years of employment experience with one or more nationally-recognized companies that provide, inter alia, professional independent directors or independent managers in the ordinary course of their respective business to issuers of securitization or structured finance instruments, agreements or securities or lenders originating commercial real estate loans for inclusion in securitization or structured finance instruments, agreements or securities (a "Professional Independent Director") and is at all times during his or her service as an Independent Director of the Corporation an employee of such a company or companies. A natural Person who satisfies the foregoing definition except for being (or having been) the independent director or independent manager of a "special purpose entity" affiliated with the Corporation (provided such affiliate does not or did not own a direct or indirect equity interest in the Corporation or the Borrower LLC) shall not be disqualified from serving as an Independent Director, provided that such natural Person satisfies all other criteria set forth above and that the fees such individual earns from serving as independent director or independent manager of affiliates of the Corporation or in any given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year. A natural Person who satisfies the foregoing definition other than subparagraph (a)(i) shall not be disqualified from serving as an Independent Director of the Corporation if such individual is a Professional Independent Director and such individual complies with the requirements of the previous sentence. As used herein, the term "Person" shall mean any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing. As used herein, the term "Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise ("Controlled" and "Controlling" shall have correlative meanings).

#### ARTICLE XIV

Any and all Corporation obligations to indemnify its directors and officers shall not constitute a claim against the Corporation, as long as the loan under the Loan Documents is outstanding.

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IN WITNESS WHEREOF, I have hereunto set my hand this 29 th day of May, 2011;  
and I affirm that the foregoing certificate is my act and deed and that the facts stated therein are  
true.

  
Incorporator

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The date of each amendment(s) adoption: May 29, 2011

Effective date if applicable: May 29, 2011

(date of adoption is required)

(no more than 90 days after amendment file date)

Adoption of Amendment(s)

(CHECK ONE)

☐ The amendment(s) was/were adopted by the shareholders. The number of votes cast for the amendment(s) by the shareholders was/were sufficient for approval.

☐ The amendment(s) was/were approved by the shareholders through voting groups. The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):

"The number of votes cast for the amendment(s) was/were sufficient for approval

by \_\_\_\_\_"  
(voting group)

☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.

☒ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Dated May 29, 2011

Signature

(By a director, president or other officer - if directors or officers have not been selected, by an incorporator - if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Jorge Linkewer

(Typed or printed name of person signing)

President

(Title of person signing)

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