

To: Page 3 of 18 2016-11-18 10:29:34 EST 02122028573 From: Kimberly Laughrey

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SECRETARY OF STATE  
DIVISION OF CORPORATIONS**MERGER OR SHARE EXCHANGE**

Mellaci Sub Inc.

Certificate of Status	0
Certified Copy	1
Page Count	11
Estimated Charge	\$78.75

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12122023573 From: Kimberly Laughrey

**COVER LETTER****TO:** Amendment Section  
Division of Corporations**SUBJECT:** Mellaci Sub, Inc.  
Name of Surviving Corporation

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to following:

Rachel Pressdee

Contact Person

Dinsmore &amp; Shohl LLP

Firm/Company

301 Grant Street, Suite 2800

Address

Pittsburgh, PA 15219

City/State and Zip Code

rachel.pressdee@dinsmore.com

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

For further information concerning this matter, please call:

Rachel Pressdee

Name of Contact Person

At (412)

230-8986

Area Code &amp; Daytime Telephone Number

☐ Certified copy (optional) \$8.75 (Please send an additional copy of your document if a certified copy is requested)**STREET ADDRESS:**Amendment Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, Florida 32301**MAILING ADDRESS:**Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, Florida 32314

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DIVISION OF CORPORATION

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**ARTICLES OF MERGER**  
(Profit Corporations)

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

**First:** The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Mollaci Sub, Inc.	Florida	PI6000090906

**Second:** The name and jurisdiction of each merging corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
New England Wholesale Fish & Lobster, Inc.	Florida	PI5000046330

**Third:** The Plan of Merger is attached.

**Fourth:** The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State.

**OR** \_\_\_\_/\_\_\_\_/\_\_\_\_ (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days after merger file date.)

**Note:** If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

**Fifth:** Adoption of Merger by surviving corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on 11/14/2016

The Plan of Merger was adopted by the board of directors of the surviving corporation on \_\_\_\_\_ and shareholder approval was not required.

**Sixth:** Adoption of Merger by merging corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on 11/14/2016

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on \_\_\_\_\_ and shareholder approval was not required.

(Attach additional sheets if necessary)

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**Seventh: SIGNATURES FOR EACH CORPORATION**

Name of Corporation

Signature of an Officer or Director

Typed or Printed Name of Individual & Title

**Melloni Sub, Inc.**

John J. Wellan

**John J. Mellaci, President**

**New England Wholesale Fish &**

**Lobster, Inc.**

John J. Mellan

**John J. Mellaci, President**

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THE FOLLOWING MAY BE SET FORTH IF APPLICABLE:

Amendments to the articles of incorporation of the surviving corporation are indicated below or attached:  
The new name of the corporation shall be: "New England Wholesale Fish & Lobster, Inc."

OR

Restated articles are attached:

Other provisions relating to the merger are as follows:

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## AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Agreement") is made and entered into as of November 14, 2016, between MELLACI SUB. INC., a Florida corporation ("MSI"), NEW ENGLAND WHOLESALE FISH & LOBSTER, INC., a Florida corporation ("NEWFLI"), and MELLACI HOLDINGS, INC., a Florida corporation ("MHI"). This Agreement contemplates a tax-free merger of NEWFLI into MSI and the issuance of MHI securities to NEWFLI shareholders in a reorganization pursuant to IRC § 368(a)(2)(D).

### PREAMBLE

A. MSI is a corporation duly organized and existing under the laws of the State of Florida and a wholly owned subsidiary of MHI.

B. NEWFLI is a corporation duly organized and existing under the laws of the State of Florida.

C. The Board of Directors of MHI and the Board of Directors of NEWFLI deem it advisable to merge NEWFLI into MSI so that MSI is the surviving corporation on the terms provided herein (the "Merger").

D. In consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree to the following.

### ARTICLE I MERGER

1.1. The Merger. After satisfaction or, to the extent permitted hereunder, waiver of all conditions to the Merger, and subject to the applicable provisions of the Florida Business Corporation Act, NEWFLI will merge with and into MSI and MSI shall file this Agreement and Plan of Merger with the Florida Department of State Division of Corporations in accordance with the provisions of Florida Business Corporation Act and shall make all other filings or recordings required by Florida in connection with the Merger. The Merger shall become effective upon the later filing of such Agreement and Plan of Merger with the Florida Department of State Division of Corporations, or at such later time as may be provided for in such Agreement and Plan of Merger (the "Effective Time"). Upon the Effective Time, the separate corporate existence of NEWFLI shall cease and MSI shall be the surviving corporation (the "Surviving Corporation").

1.2. Conditions to the Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver (except as provided in this Agreement) of the following conditions:

(a) This Agreement shall have been ratified by the sole shareholder of MSI, that is, MHI, in accordance with the requirements of the Florida Business Corporation Act and the Certificate of Incorporation and Bylaws of MSI; and

(b) This Agreement shall have been adopted by the holders of at least a majority of the outstanding voting power of NEWFLI in accordance with the requirements of the Florida Business Corporation Act and the Certificate of Incorporation and Bylaws of NEWFLI.

1.3. Transfer, Conveyance, and Assumption. At the Effective Time, MSI shall continue in existence as the Surviving Corporation and, without further transfer, succeed to and possess all rights, privileges, powers, and franchises of NEWFLI, and all of the assets and property of whatever kind and character of

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NEWFLI shall vest in MSI as the Surviving Corporation without further deed; thereafter, MSI, as the Surviving Corporation, shall be liable for all of the liabilities and obligations of NEWFLI and any claim or judgment against NEWFLI may be enforced against MSI as the Surviving Corporation.

1.4. Articles of Incorporation: Bylaws.

(a) From and after the Effective Date, the Articles of Incorporation of MSI shall be shall be amended as set forth in Section 1.5 and shall be the Articles of Incorporation of the Surviving Corporation.

(b) From and after the Effective Date, the Bylaws of MSI shall be the Bylaws of the Surviving Corporation.

1.5. Articles of Amendment to Articles of Incorporation. Pursuant to the provisions of section 607.1006, Florida Statutes, Mellac Sub, Inc. adopts the following amendment to its Articles of Incorporation:

(a) The new name of the corporation shall be: "New England Wholesale Fish & Lobster, Inc."

1.6. Directors and Officers of the Surviving Corporation. From and after the Effective Time, the directors and officers of MSI serving as directors or officers of MSI immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation.

1.7. Tax Matters.

(a) Prior to the Effective Time, MHI, MSI, and NEWFLI each agree to use their respective commercially reasonable efforts to cause the Merger to qualify for tax purposes under IRC §§ 368(a)(1)(A) and 368(a)(2)(D), and will not take any actions that, to their knowledge, could reasonably be expected to prevent the Merger from qualifying as a "reorganization" under IRC § 368(a). However, if necessary, for the avoidance of doubt, MHI, MSI, and NEWFLI each agree to use their respective commercially reasonable efforts to merge the Surviving Corporation with and into a corporation wholly owned by MHI in a manner that will enable the Merger to qualify as a "reorganization" under IRC § 368(a)(1)(A) in the event that MHI, in its sole discretion, determines that such action is reasonably necessary or advisable so as to enable the Merger to qualify as a "reorganization" under IRC § 368(a). Following the Effective Time, MHI and the Surviving Corporation each agree to use their respective commercially reasonable efforts to cause the Merger to qualify, and will not take any actions that could reasonably be expected to prevent the Merger from qualifying as a "reorganization" under IRC § 368(a). For the avoidance of doubt, following the Merger (consummated as contemplated under IRC § 368(a)(2)(D)), MHI may merge the Surviving Corporation with and into MHI, a business entity wholly owned by MHI that is disregarded as an entity separate from MHI for federal income tax purposes (within the meaning of Reg. § 1.368-2(b)(1)(i)(A)), or an entity that is classified as a corporation for federal income tax purposes and is treated as controlled by MHI for purposes of IRC § 368(a)(2)(D), by means of a statutory merger or consolidation, within the meaning of Reg. § 1.368-2(b)(1)(ii); provided, however, that MHI shall not be obligated to merge the Surviving Corporation with any entity after the Merger.

(b) This Agreement is intended to constitute, and the parties hereto hereby adopt this Agreement as, a "plan of reorganization" within the meaning of Reg. §§ 1.368-2(g) and 1.368-3(a). MHI, MSI, and NEWFLI shall report the Merger as a reorganization within the meaning of IRC § 368(a), unless otherwise required pursuant to a "determination" within the meaning of, and described in, IRC § 1313(a)(1).

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## ARTICLE II CONVERSION OF SHARES

2.1. Conversion of Stock. Upon the Effective Time, by virtue of the Merger and without any action on the part of the holder of any outstanding share of NEWFLI each share of NEWFLI shall be converted into shares of MHI, rounded to the nearest whole number of shares.

## ARTICLE III REPRESENTATIONS AND WARRANTIES

3.1. Representations and Warranties of NEWFLI. NEWFLI hereby represents and warrants that:

(a) It is a corporation duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all the requisite power and authority to own, lease, and operate its properties and assets, and to carry on business as it is now being conducted;

(b) It is duly qualified to do business as a foreign person and is in good standing in each jurisdiction where the character of its properties or the nature of its activities make such qualification necessary;

(c) It is not in violation of any provisions of its Articles of Incorporation or Bylaws; and

(d) It has full corporate power and authority to execute and deliver this Agreement and, assuming the adoption of this Agreement by the shareholders of NEWFLI in accordance with the Florida Business Corporation Act and the Articles of Incorporation and Bylaws of NEWFLI, consummate the Merger and the other transactions contemplated by this Agreement.

3.2. Representations and Warranties of MSI. MSI hereby represents and warrants that:

(a) It is a corporation duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all the requisite power and authority to own, lease, and operate its properties and assets, and to carry on business as it is now being conducted;

(b) It is duly qualified to do business as a foreign person and is in good standing in each jurisdiction where the character of its properties or the nature of its activities make such qualification necessary;

(c) It is not in violation of any provisions of its Articles of Incorporation or Bylaws; and

(d) It has full corporate power and authority to execute and deliver this Agreement and, assuming the adoption of this Agreement by the shareholders of MSI in accordance with the Florida Business Corporation Act and the Articles of Incorporation and Bylaws of MSI, consummate the Merger and the other transactions contemplated by this Agreement.

3.3. Securities Act and State Securities Laws. MHI will take such further action it deems necessary to reasonably rely on exemptions for sales of securities under the Securities Act of 1933, as amended, with respect to the issuance of the Merger Securities. MHI will take all actions that may be necessary, proper, or advisable under the state securities laws in connection with the offering and issuance of the Merger Securities.

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#### ARTICLE IV TERMINATION

4.1. Termination. At any time prior to the Effective Time, this Agreement may be terminated and the Merger abandoned for any reason whatsoever by the Board of Directors of NEWFLI or the Board of Directors of MSI, notwithstanding the adoption of this Agreement by the shareholders of NEWFLI or MSI.

#### ARTICLE V FURTHER ASSURANCES

5.1. Further Assurances as to NEWFLI. If, at any time after the Effective Time, MSI shall consider or be advised that any further assignment, conveyance, or assurance in law or any other acts are necessary or desirable to (1) vest, perfect, or confirm in MSI its right, title, or interest in, to, or under any of the rights, properties, or assets of NEWFLI acquired or to be acquired by MSI as a result of or in connection with the Merger, or (2) otherwise carry out the purposes of this Agreement, NEWFLI and its proper officers shall be deemed to have granted to MSI an irrevocable power of attorney to execute and deliver all such proper deeds, assignments, and assurances in law and to do all acts necessary or proper to vest, perfect, or confirm title to and possession of such rights, properties, or assets in MSI, and otherwise carry out the purposes of this Agreement; and the officers and directors of MSI are fully authorized in the name of NEWFLI or otherwise to take any and all such action.

#### ARTICLE VI MISCELLANEOUS

6.1. Amendment. At any time prior to the Effective Time, this Agreement may be amended, modified, or supplemented by the Board of Directors of NEWFLI and MSI, whether before or after the adoption of this Agreement by the shareholders of NEWFLI and MSI; provided, however, that after any such adoption, there shall not be made any amendment that by law requires the further approval by such shareholder of NEWFLI or MSI. This Agreement may not be amended except by an instrument in writing signed on behalf of each of NEWFLI, MSI, and MHI.

6.2. No Waivers. No failure or delay by any party hereto exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

6.3. Assignment; Third-Party Beneficiaries. Neither this Agreement nor any right, interest, or obligation hereunder shall be assigned to any of the parties hereto without the prior written consent of the other parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement is not intended to confer any rights or benefits upon any person other than the parties hereto.

6.4. Governing Law. This Agreement shall in all respects be interpreted by, and construed, interpreted, and enforced in accordance with and pursuant to, the laws of the State of Florida.

6.5. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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6.6. Service of Process. The Surviving Corporation agrees that it may be served with process in the State of Florida in any proceeding for enforcement of any obligation of any constituent corporation of that State, as well as for enforcement of any obligation of the Surviving Corporation arising from the Merger, and does hereby irrevocably appoint the Florida Department of State Division of Corporations as its agent to accept service of process in any such suit or proceeding. The address to which a copy of such process shall be mailed by Florida Department of State Division of Corporations is as follows:

New England Wholesale Fish and Lobster, Inc.  
Attention: John J. Mellaci, President  
3001 SE Gran Park Way  
Stuart, Florida 34997

6.7. Entire Agreement. This Agreement and the documents referred to herein are intended by the parties as a final expression of the agreement with respect to the subject matter hereof and are intended as the complete and exclusive statement of the terms and conditions of that agreement, and there are no other agreements or understandings, written or oral, among the parties relating to the subject matter hereof. This Agreement supersedes all prior agreements and understandings, written or oral, among the parties with respect to the subject matter hereof.

[SIGNATURE PAGE TO FOLLOW]

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**SIGNATURE PAGE TO AGREEMENT AND PLAN OF MERGER**

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have duly executed this Agreement as of the date first stated above.

MELLACI HOLDINGS, INC.

By: John J. Mellaci  
John J. Mellaci, President

MELLACI SUB, INC.

By: John J. Mellaci  
John J. Mellaci, President

NEW ENGLAND WHOLESALE FISH &  
LOBSTER, INC.

By: John J. Mellaci  
John J. Mellaci, President

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