



THE UNITED STATES  
CORPORATION  
COMPANY

P 93000000803

ACCOUNT NO. : 072100000032

REFERENCE : 885515 7158989

AUTHORIZATION : Patricia Pizito

COST LIMIT : \$ 87.50

FILED  
98 JUL -9 PM 1:56  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ORDER DATE : July 9, 1998

ORDER TIME : 10:52 AM

ORDER NO. : 885515-005

CUSTOMER NO: 7158989

CUSTOMER: Juerg Heim, Esq  
Ivey, Barnum & O'mara, Llc  
170 Mason Street

Greenwich, CT 06830-6692

300002584313--4

DOMESTIC AMENDMENT FILING

NAME: CLARKE ICE CREAM COMPANY

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT  
       RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Deborah Schroder

EXAMINER'S INITIALS:

RECEIVED  
98 JUL -9 AM 11:27  
DIVISION OF CORPORATION

Restated  
PST  
7/10

CERTIFICATE  
OF  
CLARKE ICE CREAM COMPANY

FILED  
98 JUL -9 PM 1:56  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

To the Department of State  
State of Florida

Pursuant to the provisions of Section 607.1007 of the Florida Business Corporation Act, the corporation hereinafter named (the "corporation") does hereby certify the following:

1. The Restated Articles of Incorporation of the corporation dated as of the date hereof contain an amended Article FOURTH requiring shareholder approval.
2. The information required by Section 607.1006 of the Florida Business Corporation Act is as follows:

- A. The name of the corporation is CLARKE ICE CREAM COMPANY.
- B. Article FOURTH of the Articles of Incorporation of the corporation is amended as follows:

"FOURTH: The number of shares that the corporation is forthwith authorized to issue is forty million one-thousand (40,001,000) of which one-thousand (1,000) shares shall be Preferred Shares with no par value, and twenty forty-million (40,000,000) shares shall be Common Shares with a par value of two cents (\$0.02) per share. The terms and relative rights and preferences of each class of stock are as follows:

(A) The holder or holders of the Preferred Shares (collectively, the "Holders") shall be entitled to receive, out of funds legally available for such purpose, if any, quarterly dividends in the amount per share such that the total funds received by all such Holders, in the aggregate, shall be no less than \$4,500.00 per annum, payable in cash, quarterly, commencing on the date three months following the effective date of the issuance of the Preferred Shares and every three months thereafter. Dividends on the Preferred Shares shall be cumulative. Unpaid cumulative dividends shall bear interest at the rate of 7% per annum from the date that they are payable until paid.

(B) Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made to the holders of Common Shares, unless, prior thereto, the Holders of the Preferred Shares shall have received an amount equal to \$100,000.00, plus an amount equal to all cumulative but unpaid dividends thereon, whether or not declared, plus interest, to the date of such payment. Any remaining assets or funds of the Corporation shall then be distributed and paid over equally to the holders of Common Shares on a share-for-share basis.

Section 1. Voting Rights. The holders of shares of the Corporation shall have the following voting rights, except as otherwise provided herein or by law:

(i) the Holders of the Preferred Shares and the holders of Common Shares shall vote together as one class on all matters submitted to a vote of the Corporation's stockholders, except as provided in subsections (ii) and (iii), below; and

(ii) each share of Common Shares shall entitle the holder thereof to one (1) vote except as provided in this subsection and subsection (iii) below, and the Holders of the Preferred Shares, voting as a class, shall be entitled at all times to such number of votes as if the Preferred Shares had been converted in full into Common Shares of the Corporation pursuant to Section (B)3 of this Article Fourth. When permitted by the Florida General Corporation Act, holders of either Common or Preferred Shares may vote in person, by written consent, or by proxy, on any matter on which action of the shareholders is sought or required; and

(iii) in addition to the voting rights described in the above subsections, the Holders of the Preferred Shares shall be entitled, to the exclusion of the holders of Common Shares, to name and elect not less than thirty percent (30%) of the members of the Board of Directors of the Corporation. The holders of the Common Shares shall be entitled, to the exclusion of the Holders of the Preferred Shares, to elect the remaining members of the Board of Directors.

Section 2. Certain Restrictions. Whenever annual cumulative dividends payable on the Preferred Shares are in arrears, thereafter and until all cumulative unpaid dividends on shares of the Preferred Shares, together with interest thereon, shall have been paid in full or declared and set apart for payment, the Corporation shall not: (a) pay dividends or make any other distributions on Common Shares, or (b) redeem or purchase or otherwise acquire for consideration any Common Shares.

Section 3. Conversion Rights. The Holders of record of Preferred Shares may, acting in the aggregate, at any time, upon surrender to the Corporation of all the certificates therefor at the principal office of the Corporation or such other place as the

Corporation shall designate, convert all, but not part, of such Preferred Shares into five million Common Shares of the Corporation such that after such conversion the Holders, in the aggregate, shall own thirty percent (30%) fully paid and non-assessable Common Shares of the Corporation (as such Common Shares shall then be constituted) of the Corporation's outstanding after:

1. Purchase of 5,000,000 Common Shares by Henry D. Clarke, Jr.; and
2. Issuance of 2,000,000 Common Shares to be issued pro rata among approved unsecured creditors of the Corporation existing on June 15, 1997; and
3. Purchase of such number of Common Shares by previous shareholders of the Corporation other than Henry D. Clarke, Jr., who deposit with the Corporation a sufficient amount of cash or certified funds to purchase such number of Common Shares as each said shareholder wishes to purchase, within a period ending July 7, 1997, but in no event a greater number, per shareholder, than that number of canceled shares held by such shareholder on June 15, 1997; and
4. Purchase of such number of Common Shares by accredited investors within a period ending on July 15, 1997.

If the Holders of Preferred Shares, acting in the aggregate, elect to convert Preferred Shares into Common Shares, those Holders must convert all of the outstanding shares of Preferred Shares in a single conversion transaction. Upon such conversion the rights of the Holders of Preferred Shares to receive any dividend, interest thereon or distribution or any liquidation, dissolution or winding-up preference shall be deemed waived."

(C) Reclassifications, Exchanges and Substitutions. If, at any time, the Common Shares issuable upon the conversion of Preferred Shares is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise, then and in any such event each holder of Preferred Shares shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such reorganization, reclassification or other change, by holders of the number of Common Shares into which such Preferred Shares might have been converted immediately prior to such reorganization, reclassification or change.

(D) Reorganizations. If at any time or from time to time there is a capital reorganization of the Common Shares (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 4), then, as a part of such reorganization, provision shall be made so that the holders of Preferred Shares shall thereafter be entitled to receive upon conversion of Preferred Shares, the number of shares of stock or cash or other securities or property of the corporation to which a holder of Common Shares deliverable upon conversion would have been entitled on such capital reorganization. In any such case, appropriate adjustment shall be made in the application of the

provisions of this Section 4 with respect to the rights of the holders of the Preferred Shares after the reorganization to the end of the provisions of this Section 4 shall be applicable after the event and be as nearly equivalent to the provisions hereof as may be practicable.

(E) No Impairment. The corporation will not, by amendment of this Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Section 4 by the corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such actions as may be necessary or appropriate in order to protect the conversion rights of the holders of the Preferred Shares against dilution or other impairment. The corporation shall at all times reserve and keep available out of its authorized but unissued Common Shares the full number of Common Shares deliverable upon the conversion of all the then outstanding Preferred Shares and shall take all such action and obtain all such permits or orders as may be necessary to enable the corporation lawfully to issue such Common Shares upon the conversion of Preferred Shares."

3. The date of adoption of the aforesaid amendment was June 3, 1998.
4. The designation of the voting groups of shareholders entitled to vote separately on the amendment is the Holders of Common Shares and the Holders of Preferred Shares.
5. The number of votes cast for the amendment by the Holders of Common Shares and Preferred Shares, voting separately, was sufficient for approval of the amendment by each such voting group.

Executed on June 3, 1998

CLARKE ICE CREAM COMPANY

By: Henry D. Clarke, Jr.  
Henry D. Clarke, Jr., President

RESTATED ARTICLES OF INCORPORATION

OF

CLARKE ICE CREAM COMPANY

FILED  
98 JUL -9 PM 1:51  
SECRETARY OF STATE  
TALLAHASSEE, FL 32399

To the Department of State  
State of Florida

Pursuant to the provisions of Section 607.1007 of the Florida Business Corporation Act, corporation hereinafter named (the "corporation") does hereby adopt the following Restated Articles of Incorporation.

FIRST: The corporate name for the corporation (hereinafter called the "corporation") is CLARKE ICE CREAM COMPANY.

SECOND: The address of the principal office of the corporation is 1627 U.S. Route 1, Suite 20, Sebastian, FL 32958.

THIRD: The mailing address of the corporation is 1627 U.S. Route 1, Suite 20, Sebastian, FL 32958.

FOURTH: The number of shares that the corporation is forthwith authorized to issue is forty million one-thousand (40,001,000) of which one-thousand (1,000) shares shall be Preferred Shares with no par value, and twenty forty-million (40,000,000) shares shall be Common Shares with a par value of two cents (\$0.02) per share. The terms and relative rights and preferences of each class of stock are as follows:

(A) The holder or holders of the Preferred Shares (collectively, the "Holders") shall be entitled to receive, out of funds legally available for such purpose, if any, quarterly dividends in the amount per share such that the total funds received by all such Holders, in the aggregate, shall be no less than \$4,500.00 per annum, payable in cash, quarterly, commencing on the date three months following the effective date of the issuance of the Preferred Shares and every three months thereafter. Dividends on the Preferred Shares shall be cumulative. Unpaid cumulative dividends shall bear interest at the rate of 7% per annum from the date that they are payable until paid.

(B) Upon any liquidation, dissolution or winding up of the Corporation, no distribution shall be made to the holders of Common Shares, unless, prior thereto, the Holders of the Preferred Shares shall have received an amount equal to \$100,000.00, plus an amount equal to all cumulative but unpaid dividends thereon, whether or not declared, plus interest, to the date of such payment. Any remaining assets or funds of the Corporation shall then be distributed and paid over equally to the holders of Common Shares on a share-for-share basis.

Section 1. Voting Rights. The holders of shares of the Corporation shall have the following voting rights, except as otherwise provided herein or by law:

(i) the Holders of the Preferred Shares and the holders of Common Shares shall vote together as one class on all matters submitted to a vote of the Corporation's stockholders, except as provided in subsections (ii) and (iii), below; and

(ii) each share of Common Shares shall entitle the holder thereof to one (1) vote except as provided in this subsection and subsection (iii) below, and the Holders of the Preferred Shares, voting as a class, shall be entitled at all times to such number of votes as if the Preferred Shares had been converted in full into Common Shares of the Corporation pursuant to Section (B)3 of this Article Fourth. When permitted by the Florida General Corporation Act, holders of either Common or Preferred Shares may vote in person, by written consent, or by proxy, on any matter on which action of the shareholders is sought or required; and

(iii) in addition to the voting rights described in the above subsections, the Holders of the Preferred Shares shall be entitled, to the exclusion of the holders of Common Shares, to name and elect not less than thirty percent (30%) of the members of the Board of Directors of the Corporation. The holders of the Common Shares shall be entitled, to the exclusion of the Holders of the Preferred Shares, to elect the remaining members of the Board of Directors.

Section 2. Certain Restrictions. Whenever annual cumulative dividends payable on the Preferred Shares are in arrears, thereafter and until all cumulative unpaid dividends on shares of the Preferred Shares, together with interest thereon, shall have been paid in full or declared and set apart for payment, the Corporation shall not: (a) pay dividends or make any other distributions on Common Shares, or (b) redeem or purchase or otherwise acquire for consideration any Common Shares.

Section 3. Conversion Rights. The Holders of record of Preferred Shares may, acting in the aggregate, at any time, upon surrender to the Corporation of all the certificates therefor at the principal office of the Corporation or such other place as the Corporation shall designate, convert all, but not part, of such Preferred Shares into five million Common Shares of the Corporation such that after such conversion the Holders, in the aggregate, shall own thirty percent (30%) fully paid and non-assessable Common Shares of the Corporation (as such Common Shares shall then be constituted) of the Corporation's outstanding after:

1. Purchase of 5,000,000 Common Shares by Henry D. Clarke, Jr.; and

2. Issuance of 2,000,000 Common Shares to be issued pro rata among approved unsecured creditors of the Corporation existing on June 15, 1997; and
3. Purchase of such number of Common Shares by previous shareholders of the Corporation other than Henry D. Clarke, Jr., who deposit with the Corporation a sufficient amount of cash or certified funds to purchase such number of Common Shares as each said shareholder wishes to purchase, within a period ending July 7, 1997, but in no event a greater number, per shareholder, than that number of canceled shares held by such shareholder on June 15, 1997; and
4. Purchase of such number of Common Shares by accredited investors within a period ending on July 15, 1997.

If the Holders of Preferred Shares, acting in the aggregate, elect to convert Preferred Shares into Common Shares, those Holders must convert all of the outstanding shares of Preferred Shares in a single conversion transaction. Upon such conversion the rights of the Holders of Preferred Shares to receive any dividend, interest thereon or distribution or any liquidation, dissolution or winding-up preference shall be deemed waived."

(C) Reclassifications, Exchanges and Substitutions. If, at any time, the Common Shares issuable upon the conversion of Preferred Shares is changed into the same or a different number of shares of any class or classes of stock, whether by recapitalization, reclassification or otherwise, then and in any such event each holder of Preferred Shares shall have the right thereafter to convert such stock into the kind and amount of stock and other securities and property receivable upon such reorganization, reclassification or other change, by holders of the number of Common Shares into which such Preferred Shares might have been converted immediately prior to such reorganization, reclassification or change.

(D) Reorganizations. If at any time or from time to time there is a capital reorganization of the Common Shares (other than a recapitalization, subdivision, combination, reclassification or exchange of shares provided for elsewhere in this Section 4), then, as a part of such reorganization, provision shall be made so that the holders of Preferred Shares shall thereafter be entitled to receive upon conversion of Preferred Shares, the number of shares of stock or cash or other securities or property of the corporation to which a holder of Common Shares deliverable upon conversion would have been entitled on such capital reorganization. In any such case, appropriate adjustment shall be made in the application of the provisions of this Section 4 with respect to the rights of the holders of the Preferred Shares after the reorganization to the end of the provisions of this Section 4 shall be applicable after the event and be as nearly equivalent to the provisions hereof as may be practicable.

(E) No Impairment. The corporation will not, by amendment of this Certificate of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issuance or sale of securities or any other voluntary action, avoid or seek

to avoid the observance or performance of any of the terms to be observed or performed under this Section 4 by the corporation but will at all times in good faith assist in the carrying out of all the provisions of this Section 4 and in the taking of all such actions as may be necessary or appropriate in order to protect the conversion rights of the holders of the Preferred Shares against dilution or other impairment. The corporation shall at all times reserve and keep available out of its authorized but unissued Common Shares the full number of Common Shares deliverable upon the conversion of all the then outstanding Preferred Shares and shall take all such action and obtain all such permits or orders as may be necessary to enable the corporation lawfully to issue such Common Shares upon the conversion of Preferred Shares.

FIFTH: The street address of the registered office of the corporation in the State of Florida is c/o The Prentice-Hall Corporation System, Inc., 1201 Hays Street, Tallahassee, Florida 32301.

The name of the registered agent of the corporation at the said registered office is The Prentice-Hall Corporation System, Inc.

SIXTH: No holder of any of the shares of any class of the corporation shall be entitled as of right to subscribe for, purchase, or otherwise acquire any shares of any class of the corporation which the corporation proposes to issue or any rights or options which the corporation proposes to grant for the purchase of shares of any class of the corporation or for the purchase of any shares, bonds, securities, or obligations of the corporation which are convertible into or exchangeable for, or which carry any rights to subscribe for, purchase, or otherwise acquire shares of any class of the corporation; and any and all of such shares, bonds, securities, or obligations of the corporation, whether now or hereafter authorized or created, may be issued, or may be reissued if the same have been reacquired and if their reissue is not prohibited, and any and all of such rights and options may be granted by the Board of Directors to such individuals or entities, and for such lawful consideration, and on such terms, as the Board of Directors in its discretion may determine, without first offering the same, or any thereof, to any said holder.

SEVENTH: The purposes for which the corporation is organized are to engage in any lawful business for which corporations may be organized under the Florida Business Corporation Act.

EIGHTH: The duration of the corporation shall be perpetual.

NINTH: The corporation shall, to the fullest extent permitted by the provisions of the Florida Business Corporation Act, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said provisions from and against any and all of the expenses, liabilities, or other matters referred to in or

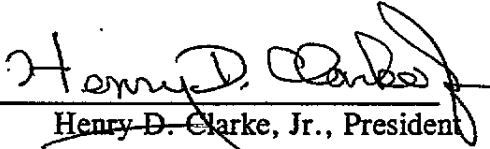
covered by said provisions, and the indemnifications provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, vote of shareholders or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of their heirs, executors, and administrators of such a person.

TENTH: Whenever the corporation shall be engaged in the business of exploiting natural resources or other wasting assets, distributions may be paid in cash out of depletion or similar reserves at the discretion of the Board of Directors and in conformity with the provisions of the Florida Business Corporation Act.

Executed on June 3, 1998

CLARKE ICE CREAM COMPANY

By:

  
Henry D. Clarke, Jr., President