

1/15/2020

Division of Corporations

## Florida Department of State

Division of Corporations

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To:

Division of Corporations

Fax Number : (850)617-6380

From:

Account Name : NORTON, HAMMERSLEY, LOPEZ &amp; SKOKOS, P.A.

Account Number : I20010000202

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Fax Number : (941)954-2128

**\*\*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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corporation@nhslaw.com

## MERGER OR SHARE EXCHANGE

Howard and Company, P.A.

Certificate of Status	0
Certified Copy	0
Page Count	08
Estimated Charge	\$70.00

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JAN 21 2020



January 16, 2020

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

NORTON HAMMERSLEY LOPEZ

SUBJECT: HOWARD AND COMPANY, P.A.  
REF: P93000033067

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.

As a condition of a merger, pursuant to s.607.1622(8), Florida Statutes, each party to the merger must be active and current in filing its annual reports with the Department of State through December 31 of the calendar year in which the articles of merger are submitted for filing.

If you have any further questions concerning your document, please call (850) 245-6050.

Terri J Schroeder  
Regulatory Specialist III  
Amendment Section

FAX Aud. #:  
Letter Number: 020A00001235

P.O BOX 6327 - Tallahassee, Florida 32314

ARTICLES OF MERGER OF  
MCGINN HOLDINGS, INC.  
INTO  
HOWARD AND COMPANY, P.A.

The following Articles of Merger are submitted to merge the following corporations in accordance with Section 607.1105, Florida Statutes.

- 1) The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u>
HOWARD AND COMPANY, P.A.	FL	P93000033067

- 2) The name and jurisdiction of the merging corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u>
MCGINN HOLDINGS, INC.	FL	P96000065625

- 3) The Agreement and Plan of Merger, including any and all amendments thereto, is attached.

- 4) The merger shall become effective upon the date that these Articles are filed with the State of Florida.

- 5) The Plan of Merger was adopted by the shareholders and directors of the surviving corporation.

- 6) The Plan of Merger was adopted by the sole shareholder and director of the merging corporation.

Dated: January 15, 2020.

HOWARD AND COMPANY, P.A.,  
a Florida corporation

MCGINN HOLDINGS, INC.,  
a Florida corporation

By: 

VINCENT T. HOWARD  
As Its: Vice President

By: 

BRIAN J. MCGINN  
As Its: President

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RECORDED & INDEXED  
JAN 17 2020  
TALLAHASSEE, FLORIDA

## AMENDMENT TO AGREEMENT AND PLAN OF MERGER

THIS AMENDMENT TO AGREEMENT AND PLAN OF MERGER (this "Amendment") is made effective as of the 14th day of December, 2019, by and between Howard and Company, P.A., a Florida corporation ("Howard"), and McGinn Holdings, Inc., a Florida corporation d/b/a Complete Small Business Solutions ("McGinn"). Howard and McGinn are hereinafter sometimes collectively referred to as the "Constituent Corporations."

### **BACKGROUND FACTS**

A. The Constituent Corporations entered into that certain Agreement and Plan of Merger, dated November 25, 2019 (the "Agreement"), for the merger of the Constituent Corporations.

B. The Constituent Corporations now desire to amend the Agreement, as more specifically set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Constituent Corporations agree as follows:

1. Background Facts. The Constituent Corporations acknowledge and agree that the background facts set forth above are true and correct to the best of their knowledge and are incorporated herein by this reference.

2. In paragraph 5 of the Agreement, the Constituent Corporations agree to extend the date on which Howard and any applicable principals, officers, or employees of McGinn must enter into separate employment agreements until January 1, 2020.

3. The Constituent Corporations hereby agree to delete paragraph 6 of the Agreement in its entirety, and hereby agree to insert the following provision in lieu thereof:

"6. Buy-Sell Agreement. Howard, Howard's shareholders, and the shareholders of McGinn shall enter into a buy-sell agreement pursuant to the terms of this Agreement by January 15, 2020. In the event that no buy-sell agreement is entered into by January 15, 2020, then this Agreement shall terminate, shall be of no further force and effect, and the Constituent Corporations shall file a statement of abandonment with the Florida Department of State pursuant to Section 607.1107 of the Florida Business Corporation Act."

4. Except as otherwise modified and amended herein, the terms and provisions of the Agreement shall remain in full force and effect as originally executed. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement, the terms and provisions of this Amendment shall prevail. This Amendment may be

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executed in counterparts, each of which, when taken together, shall constitute one agreement. A facsimile signature shall be binding upon the parties.

IN WITNESS WHEREOF, the Constituent Corporations have executed this Amendment on the date first above written.

Witness #1 as to Howard and Company, P.A.

Howard and Company, P.A.

Name: Susan B. Rogers

By: [Signature]  
Name: Vincent T. Howard  
Title: Vice President

Witness #2 as to Howard and Company, P.A.

Name: Shannon L. Hault

Witness #1 as to McGinn Holdings, Inc. d/b/a  
Complete Small Business Solutions

McGinn Holdings, Inc. d/b/a  
Complete Small Business Solutions

Name: Cathline Greene

By: [Signature]  
Name: Brian J. McGinn  
Title: President

Witness #2 as to McGinn Holdings, Inc. d/b/a  
Complete Small Business Solutions

Name: Denise Porter

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STANDARD & S. J. J.  
FALLS CHURCH, VA 22034

**AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER, dated as of November 25, 2019 (this "Agreement"), is entered into by and between Howard and Company, P.A., a Florida corporation ("Howard"), and McGinn Holdings, Inc., a Florida corporation d/b/a Complete Small Business Solutions ("McGinn"); Howard and McGinn are hereinafter sometimes collectively referred to as the "Constituent Corporations."

**WITNESSETH:**

WHEREAS, Howard is a corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, Howard has a capitalization of ten thousand (10,000) authorized shares of \$1.00 par value common stock, of which one hundred (100) shares are issued and outstanding;

WHEREAS, McGinn is a corporation duly organized and existing under the laws of the State of Florida;

WHEREAS, McGinn has a capitalization of seven thousand five hundred (7,500) authorized shares of \$1.00 par value common stock, of which 980.75 shares are issued and outstanding;

WHEREAS, the respective Boards of Directors of Howard and McGinn have determined that it is advisable and in the best interests of such corporations and their stockholders that McGinn merge with and into Howard upon the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, the respective shareholders of Howard and McGinn have approved this Agreement, by execution of written consents in accordance with Section 607.1103 of the Florida Business Corporation Act.

NOW, THEREFORE, in consideration of the premises and mutual agreements and covenants herein contained, Howard and McGinn hereby agree as follows:

**ARTICLE I  
THE MERGER**

1. Surviving Entity. McGinn shall be merged with and into Howard (the "Merger") such that Howard shall be the surviving corporation (the "Surviving Corporation"). Articles of Merger and this Agreement shall be filed with the Florida Department of State and the Merger shall become effective on the date that the Articles of Merger are filed with the Florida Department of State ("Effective Time").

2. Governing Documents. The Articles of Incorporation and By-Laws of Howard shall be the Articles of Incorporation of the Surviving Corporation.

3. Directors. The persons who are directors of Howard immediately prior to the Effective Time shall, after the Effective Time, be the directors of the Surviving Corporation, without

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change until their successors have been duly elected and qualified in accordance with the Articles of Incorporation and By-laws of the Surviving Corporation.

4. Officers. The persons who are officers of Howard immediately prior to the Effective Time shall, after the Effective Time, be the officers of the Surviving Corporation, without change until their successors have been duly elected and qualified in accordance with the Articles of Incorporation and By-laws of the Surviving Corporation.

5. Additional Administrative Functions and Surviving Corporation Compensation. Upon execution of this Agreement, Howard and any applicable principals, officers, or employees of McGinn shall enter into separate employment agreements, setting forth salaries, employment duties, rights, responsibilities, and other terms as may be mutually agreed upon by the parties to such employment agreements. In the event that no employment agreements are entered into prior to December 15, 2019, then this Agreement shall terminate, shall be of no further force and effect, and the Constituent Corporations shall file a statement of abandonment with the Florida Department of State pursuant to Section 607.1107 of the Florida Business Corporation Act.

6. Buy-Sell Agreement. Howard and the shareholders of McGinn shall enter into a buy-sell agreement pursuant to the terms of this Agreement by January 1, 2020. In the event that no buy-sell agreement is entered into by January 1, 2020, then this Agreement shall terminate, shall be of no further force and effect, and the Constituent Corporations shall file a statement of abandonment with the Florida Department of State pursuant to Section 607.1107 of the Florida Business Corporation Act.

7. Succession. At the Effective Time, the separate corporate existence of McGinn shall cease and (i) all the rights, privileges, powers and franchises of a public and private nature of each of the Constituent Corporations, subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; (ii) all assets, property, real, personal and mixed, belonging to each of the Constituent Corporations, including client base, furniture, and equipment; and (iii) all debts due to each of the Constituent Corporations on whatever account, including stock subscriptions and all other things in action; shall succeed to, be vested in and become the property of the Surviving Corporation without any further act or deed as they were of the respective Constituent Corporations. The title to any real estate vested by deed or otherwise and any other asset, in either of such Constituent Corporations shall not revert or be in any way impaired by reason of the Merger, but all rights of creditors and all liens upon any property of McGinn shall be preserved unimpaired. To the extent permitted by law, any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted as if the Merger had not taken place. All debts, liabilities and duties of the respective Constituent Corporations shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it. All corporate acts, plans, policies, agreements, arrangements, approvals and authorizations of McGinn, its shareholders, Board of Directors and committees thereof, officers and agents that were valid and effective immediately prior to the Effective Time, shall be taken for all purposes as the acts, plans, policies, agreements, arrangements, approvals and authorizations of the Surviving Corporation and shall be as effective and binding thereon as the same were with respect to McGinn.

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8. Further Assurances. From time to time, as and when required by the Surviving Corporation or by its successors or assigns, there shall be executed and delivered on behalf of McGinn, such deeds and other instruments, and there shall be taken or caused to be taken by it all such further and other action, as shall be appropriate, advisable or necessary in order to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation the title to and possession of all property, interests, assets, rights, privileges, immunities, powers, franchises and authority of McGinn, and otherwise to carry out the purposes of this Agreement. The officers and directors of the Surviving Corporation are fully authorized in the name and on behalf of McGinn or otherwise, to take any and all such action and to execute and deliver any and all such deeds and other instruments.

## ARTICLE II CONVERSION OF SHARES

9. The manner and basis of converting the shares of McGinn into shares of the Surviving Corporation is as follows:

- a. Each share of the \$1.00 par value common stock of McGinn issued, and outstanding at the Effective Time of the merger shall be converted into 0.0153 shares of the \$1.00 par value common stock of the Surviving Corporation, which shares of common stock of the Surviving Corporation shall thereupon be issued and outstanding.
- b. The conversion shall be effected as follows: after the Effective Time of the merger, each holder of certificates for shares of common stock in McGinn shall surrender them to the Surviving Corporation or its duly appointed agent, in such manner as the Surviving Corporation shall legally require. 0.0153 shares of the Surviving Corporation shall be issued for each one (1) share of McGinn surrendered in exchange therefore.

## ARTICLE III REVALUATION

10. Revaluation. On or about December 31, 2019, the Parties shall revalue the Constituent Corporations. McGinn shall be revalued using a multiplier of 1x for tax income, and 1.1x for accounting and payroll. Howard shall be revalued using a multiplier of 1x for tax income, and 1.7x for accounting and payroll. If values have neither increased nor decreased more than five (5) percent, then no adjustment shall be made to the share amounts detailed in Paragraph 10 hereof.

## ARTICLE IV CORPORATE STATUS UNDER INTERNAL REVENUE CODE

11. The Surviving Corporation will continue to be treated as an S Corporation under the Internal Revenue Code of 1986, as amended. When McGinn, an S Corporation, shall cease on

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the Effective Time of the merger, the taxable year of McGinn will end. The Surviving Corporation shall succeed to all corporate tax liabilities of McGinn.

#### ARTICLE V PROHIBITED TRANSACTIONS

12. Neither of the Constituent Corporations shall, prior to the Effective Time of the merger, engage in any activity or transaction, other than in the ordinary course of business, except that McGinn and the Surviving Corporation may pay regular quarterly distributions on their outstanding common shares, and take all action necessary or appropriate under the laws of the State of Florida to consummate this merger.

#### ARTICLE VI MISCELLANEOUS

13. Amendment. The parties hereto, by mutual consent of their respective Boards of Directors, may amend, modify or supplement this Agreement prior to the Effective Time.

14. Counterparts. This Agreement may be executed in one or more counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

15. Descriptive Headings. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

16. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, without giving effect to the choice or conflict of law provisions contained therein to the extent that the application of the laws of another jurisdiction will be required thereby.

17. Attorneys' Fees. In the event of any action or suit based upon or arising out of any alleged breach by any Party of any representation, warranty, covenant or agreement contained in this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs of such action or suit from the other Party.

18. Entire Agreement. This Agreement (including any other documents, instruments or certificates referred to herein, which are incorporated in and constitute a part of this Agreement) contains the entire agreement of the Parties.

19. Further Actions. The Parties shall execute and deliver to each other, from time to time at or after Effective Time, for no additional consideration and at no additional cost to the requesting party, such further assignments, certificates, instruments, records, or other documents, assurances or things as may be reasonably necessary to give full effect to this Agreement and to

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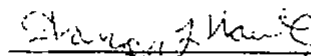
allow each party fully to enjoy and exercise the rights accorded and acquired by it under this Agreement.

20. Time of the Essence. Time is of the essence under this Agreement. If the last day permitted for the giving of any notice or the performance of any act required or permitted under this Agreement falls on a day which is not a business day, the time for the giving of such notice or the performance of such act shall be extended to the next succeeding business day.

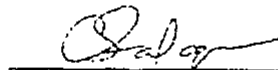
21. Rights Cumulative. All rights and remedies of each of the Parties under this Agreement shall be cumulative, and the exercise of one or more rights or remedies shall not preclude the exercise of any other right or remedy available under this Agreement or applicable law.

IN WITNESS WHEREOF, Howard and McGinn have caused this Agreement to be executed and delivered as of the date first written above.


Witness #1 as to Howard and Company, P.A.

  
Name: Shannon L. Houde

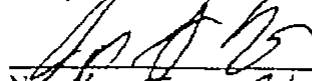
Witness #2 as to Howard and Company, P.A.

  
Name: Carmel Salazar

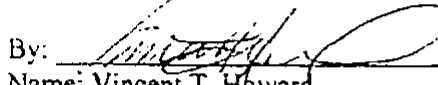
Witness #1 as to McGinn Holdings, Inc. d/b/a  
Complete Small Business Solutions

  
Name: Denise Porter

Witness #2 as to McGinn Holdings, Inc. d/b/a  
Complete Small Business Solutions

  
Name: Joe Cohen

Howard and Company, P.A.

By:   
Name: Vincent T. Howard  
Title: Vice President

McGinn Holdings, Inc. d/b/a  
Complete Small Business Solutions

By:   
Name: Brian J. McGinn  
Title: President

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

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[Signature Page to Agreement]