

P93000046482

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Articles of Amendment
to
Articles of Incorporation
of

MJ HOTELS OF OCALA, INC.

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

P93000046482

(Document Number of Corporation (if known))

FILED
2010 AUG 12 AM 9:46
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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:

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:

(Principal office address MUST BE A STREET ADDRESS)

C. Enter new mailing address, if applicable:

(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:

New Registered Office Address:

(Florida street address)

(City)

_____, Florida
(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.

Signature of New Registered Agent, if changing

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>
DIRECTOR	MICHELLE DREYER	2711 CENTERVILLE ROAD SUITE 400 WILMINGTON, DE 19808	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove
			<input type="checkbox"/> Add <input type="checkbox"/> Remove
			<input type="checkbox"/> Add <input type="checkbox"/> Remove

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

PLEASE SEE ATTACHED "ARTICLES OF AMENDMENT TO ARTICLES OF INCORPORATION OF MJ HOTELS OF OCALA, INC. (F/K/A PGHG-SHORES, INC.)"

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

The date of each amendment(s) adoption: AUGUST 12, 2010
(date of adoption is required)

Effective date if applicable: _____
(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 AUGUST 10, 2010

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)

WILLIAM A. MEYER

(Typed or printed name of person signing)

PRESIDENT

(Title of person signing)

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION OF
MJ HOTELS OF OCALA, INC.
(f/k/a PGHG-Shores, Inc.)**

THESE ARTICLES OF AMENDMENT TO ARTICLES OF INCORPORATION OF MJ HOTELS OF OCALA, INC. ("Amendment") (are adopted as of the _____ day of August, 2010 pursuant to the provisions of Section 607.1003 of the Florida Business Corporation Act (2009), by the undersigned, its Board of Directors and by the sole shareholder of MJ Hotels of Ocala, Inc. (f/k/a PGHG-Shores, Inc.) ("the Corporation") to amend the Articles of Incorporation of MJ Hotels of Ocala, Inc., as amended, (the "Articles").

WHEREAS, MJ Ocala Hotel Associates, Ltd., a Florida limited partnership ("Borrower" or "Partnership"), has arranged to borrow mortgage refinance money (the "Loan") from **CBRE Capital Partners U.S. I Holdings, LLC,** together with its successors and assigns (the "Lender"); and

WHEREAS, OHI Limited Partnership, a Florida limited partnership is the sole general partner ("General Partner") of the Borrower and the Corporation is the sole general partner of OHI Limited Partnership, and

WHEREAS, the Loan will be evidenced by that certain Renewal Promissory Note Including Future Advance made by Borrower to Lender, dated as of the date hereof made by the Partnership to Lender and secured by, among other things, that certain Note and Mortgage Modification Agreement Evidencing Renewal Promissory Note Including Future Advance and Amended and Restated Mortgage, Assignment of Leases and Rents and Security Agreement encumbering the Partnership's real property in Marion County, Florida (the "Property"), and issued pursuant to a Loan Agreement between the Partnership and Lender dated as of even date herewith (unless otherwise defined, the capitalized terms herein shall have their meaning as ascribed in the Loan Agreement); and

WHEREAS, Lender is unwilling to make the Loan unless the Corporation amends its Articles of Incorporation in the manner herein set forth.

These Articles of Amendment are adopted:

1. Article III – PURPOSE, is deleted in its entirety and the following is substituted in lieu and in place thereof:

ARTICLE III - PURPOSE

"3.1 Notwithstanding anything to the contrary contained in the Articles or this Amendment until such time as the Loan shall be paid in full:

3.1.1 The Corporation shall have no authority to perform any act in respect of the Partnership in violation of any (a) applicable laws or regulations or (b) any agreement between the Partnership and the Lender.

3.1.2 The Corporation has been and will continue to be organized solely for the purposes of being the general partner of the General Partner of Borrower which is the owner and operator of the Hilton Hotel located at 3600 S.W. 36th Avenue, Ocala, Florida 34474 (the "Hotel") and being the property manager of the Hotel, and engaging in any and all activities permitted under the laws of the State of Florida which are necessary or incidental thereto. The Corporation shall not engage in any activities or exercise any powers beyond those permitted in this Section, regardless of whether permitted to do so under the laws of the State of Florida.

3.1.3 Notwithstanding any other provision of the Articles of this Amendment or any provision of any law that otherwise so empowers the Corporation, and for so long as any obligations of the Borrower under the Loan and the documents evidencing or securing the Loan (as the same may be amended, modified, severed, supplemented, extended, or restated, the "Loan Documents") remain outstanding and not satisfied in full, the Corporation shall not do any of the following:

(a) The Corporation shall not:

(i) make any loans to its directors or to the General Partner or other partners of the General Partner or Partnership (individually, a "Partner" and collectively with the General Partner, the "Partners") or the Partnership's or any Partner's Affiliates;

(ii) change the nature of the business conducted by the Corporation;

(iii) to the fullest extent permitted by law, dissolve, wind-up, or liquidate the Corporation;

(iv) merge, consolidate or acquire all or substantially all of the assets of an Affiliate of same or other person or entity;

(v) except as expressly permitted by the Loan Documents or Lender in writing (not to be unreasonably denied, delayed or conditioned), sell, encumber (except with respect to the Lender) or otherwise transfer or dispose of all or substantially all of the properties of the Corporation (a sale or disposition will be deemed to be "all or substantially all of the properties of the Corporation" if the sale or disposition includes the General Partner, the Property or if the total value of the properties sold or disposed of in such transaction and during the twelve months preceding such transaction is sixty six and two thirds percent (66-2/3%) or more in value of the Corporation's total assets as of the end of the most recently completed Corporations fiscal year); or

(vi) except as permitted by the Lender in writing, amend, modify or otherwise change these Articles of Incorporation (or, after securitization of the Loan, only if the Corporation receives (1) confirmation from each of the applicable rating agencies that such amendment, modification or change would not result in the qualification, withdrawal, reduction or downgrade of any securities rating and (2) permission of the Lender in writing).

(b) The Corporation shall not, and no director thereof or other person or entity on behalf of the Corporation shall, without the prior written affirmative vote of one hundred percent (100%) of its shareholders and directors and the prior written affirmative vote of the

Independent Directors (as defined below) of the Corporation, take any Bankruptcy Action (as defined below) with respect to itself, the General Partner or the Borrower.

(c) Notwithstanding any other provision of the Articles of this Amendment, or the by-laws of the Corporation, for so long as the Loan remains outstanding and not satisfied in full, the Corporation acknowledges and agrees that it and the General Partner:

(i) has and will continue to observe the applicable legal requirements for the recognition of the Corporation as a legal entity separate from any directors or Affiliates of same;

(ii) was and will be organized solely for the purpose of being the general partner of the General Partner of the Borrower, which is owner of the Property;

(iii) has not engaged and will not engage in any business unrelated to the general partnership interest in the General Partner;

(iv) has not had and will not have any assets other than those related to the general partnership interest in the General Partner;

(v) has not engaged, sought or consented to and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, asset sale (except as expressly permitted by the Loan Agreement);

(vi) has been and will be a Special Purpose Bankruptcy Remote Entity;

(vii) has not and will not dissolve upon the bankruptcy of any officer, director, shareholder or Affiliates,

(viii) has remained and will remain solvent and has maintained and will maintain adequate capital in light of its contemplated business operations;

(ix) has not failed and will not fail to correct any known misunderstanding regarding its separate identity;

(x) has maintained and will maintain its accounts, books and records separate from any other Person and will file its own tax returns;

(xi) has maintained and will maintain its books, records, resolutions and agreements as official records;

(xii) has not commingled and will not commingle its funds or assets with those of any other Person (which, for the avoidance of doubt, does not include funds held by the Manager in accordance with the Management Agreement and in strict compliance with the requirements of clause xxv below);

(xiii) has held and will hold its funds and assets in its own name (which, for the avoidance of doubt, does not include funds held by the Manager in accordance with the Management Agreement and in strict compliance with the requirements of clause xxv below);

(xiv) has conducted and will conduct its business in its name only, and has not and will not use any trade name,

(xv) has maintained and will maintain its financial statements, accounting records and other entity documents separate from any other Person;

(xvi) has paid and will pay its own liabilities, including the salaries of its own employees, out of its own funds and assets;

(xvii) has observed and will observe all partnership, corporate or limited partnership formalities, as applicable;

(xviii) has maintained and will maintain an arm's-length relationship with its Affiliates;

(xix) has and will have no indebtedness other than unsecured trade payables in the ordinary course of business relating to acting as the general partner of the General Partner that are normal and reasonable under the circumstances, but in any event which (1) do not exceed, at any time, \$25,000 and (2) are not evidenced by a note and are paid when due, but in no event more than thirty (30) days of the date incurred.,

(xx) has not and will not assume or guarantee, pledge its assets or otherwise become obligated for the debts of any other Person or hold out its credit as being available to satisfy the obligations of any other Person except for the Loan;

(xxi) has not and will not acquire obligations or securities or stock of its partners, members, shareholders, Affiliates or any other Person;

(xxii) has used and will use stationery, invoices and checks separate from any other Person;

(xxiii) except in connection with the Loan, has not pledged and will not pledge its assets for the benefit of any other Person;

(xxiv) has held itself out and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division, department or part of any other Person;

(xxv) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xxvi) has not made and will not make loans to any Person;

(xxvii) has not identified and will not identify its officer, directors or shareholders, or any Affiliate of any of them, as a division, department or part of it;

(xxviii) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its partners, shareholders or Affiliates except in the ordinary

course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party;

(xxix) has and will have no obligation to indemnify its officers, directors, or has such an obligation that is not fully subordinated to the Loan and will not constitute a claim against it until the Debt has been indefeasibly paid in accordance with the term of the Loan Documents and otherwise has been fully discharged;

(xxx) has considered and will consider the interests of its creditors, the creditors of the General Partner and the Partnership in connection with all corporate actions, as applicable and notwithstanding that the Corporation, the General Partnership or the Partnership is not then insolvent; and

(xxxi) will not form, acquire or hold any subsidiary (whether corporation, partnership, limited liability company or other).

(xxxiii) has and will pay or cause to be paid its own liabilities and expenses of any kind, including but not limited to salaries of its employees, only out of its own separate funds and assets, and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;

(xxxiv) has not appointed and will not appoint an Affiliate as agent of the Corporation, other than, as applicable, a property manager with respect to the Property;

(xxxv) has not and will not do any act which would make it impossible to carry on the ordinary business of the Corporation;

(xxxvi) has not invested and not invest any of the Corporation's funds in securities issued by, nor shall the Corporation acquire the indebtedness or obligation of, any Affiliate of same;

(xxxvii) has caused and will cause all investments made in the name of the Corporation to be made directly by the Corporation or on its behalf by brokers engaged and paid by the Corporation or its agents; and

(xxxviii) has not acted and shall not act as a property manager for any other property other than the Hotel.

Failure of the Corporation, General Partner or the Borrower to comply with the foregoing covenants or other covenants contained in this Amendment shall not affect the status of the Corporation as a separate legal entity.

3.1.4 Independent Director.

(a) At all times while the Debt is outstanding, at least one (1) of the directors of the Corporation shall be an Independent Director.

(b) Subject to the other provisions of this Section 3.1.4, the Independent Director may be removed from the board of directors of the Corporation only for Cause. In the event of

the death, incapacity, resignation or removal of an Independent Director, the board of directors of the Corporation shall promptly appoint a replacement Independent Director and no action requiring the consent of an Independent Director shall be taken until a replacement Independent Director has been appointed. In addition, no Independent Director may be removed unless his or her successor satisfying the definition hereunder has been appointed and has accepted such appointment. Notwithstanding anything contained herein to the contrary, no Independent Director of the Corporation may be removed or replaced in accordance with this clause (b) unless the Borrower, the Partnership or the Corporation provides Lender with not less than three (3) Business Days' prior written notice of (a) any proposed removal of an Independent Director, together with a statement as to the reasons for such removal, and (b) the identity of the proposed replacement Independent Director, together with a certification that such replacement satisfies the requirements set forth in the organizational documents for an Independent Director. When voting with respect to any Bankruptcy Action, the Independent Director shall consider only the interests of the Borrower, the Partnership, and the Corporation, including the Borrower's, the General Partner's and the Corporation's creditors.

(c) Except for duties to the Borrower and the Partnership, and the Corporation as set forth above (including duties to the Borrower's, the General Partner's and the Corporation's creditors solely to the extent of their respective economic interests in the Partnership but excluding (i) all other interests of the Corporation, (ii) the interests of other Affiliates of the Corporation, and (iii) the interests of any group of Affiliates of which the Corporation is a part), the Independent Directors shall not have any fiduciary duties to the shareholders, officers or directors of the Corporation, or any other Person bound by this Agreement; provided, however, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. To the fullest extent permitted by law, an Independent Director shall not be liable to the Corporation or any other Person bound by this Amendment for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct."

The Articles are further amended by adding the following as a new Article XII, **Miscellaneous Provisions**.

"ARTICLE XII – MISCELLANEOUS PROVISIONS

Notwithstanding any provision of the Articles to the contrary, for as the Loan remains outstanding and is not satisfied in full, the following provisions shall apply:

12.1 All capitalized terms not herein defined shall have the meanings ascribed to such terms in the Loan Agreement.

12.2 No indebtedness other than the Loan shall be secured (senior, subordinated or pari passu) by the Property.

12.3 [Intentionally Omitted].

12.4. In the event of the death, incapacity, resignation or removal of the Independent Director of the Corporation, the board of directors of the Corporation shall promptly appoint a replacement Independent Director and no action requiring the consent of the Independent Director shall be taken by the Corporation until a replacement Independent Director has been

appointed. In addition, no Independent Director may be removed unless his or her successor satisfying the definition hereunder has been appointed and has accepted such appointment. Notwithstanding anything contained herein to the contrary, no Independent Director of the Corporation may be removed or replaced unless the Corporation provides Lender with not less than three (3) Business Days' prior written notice of (a) any proposed removal of an Independent Director, together with a statement as to the reasons for such removal, and (b) the identity of the proposed replacement Independent Director of the Corporation, together with a certification that such replacement satisfies the requirements set forth in the organizational documents for an Independent Director. When voting with respect to any Bankruptcy Action, the Independent Directors shall consider only the interests of the Corporation, the General Partner or Borrower, including their creditors.

12.5 None of the provisions of this Amendment shall be for the benefit of or enforceable by any creditor of the Borrower, the General Partner or the Corporation or by any creditor of the General Partner or the Corporation except the Lender (for so long as the Loan is outstanding). The Lender is an intended third-party beneficiary of this Amendment and may enforce all provisions hereof.

12.6 Any indemnification obligation of the Borrower shall (a) be fully subordinated to the Loan and (b) not constitute a claim against the Corporation or its assets until such time as the Loan has been indefeasibly paid in accordance with its terms and otherwise has been fully discharged.

12.7 From and after the date the Partnership has delivered a nonconsolidation opinion in connection with the Loan, no transfer of any direct or indirect ownership in the Partnership may be made such that the transferee owns, in the aggregate with the ownership interests in the Corporation of transferee's Affiliates, more than a forty-nine percent (49%) interest in the Corporation unless such transfer is conditioned upon the delivery of an acceptable nonconsolidation opinion to the Lender and any applicable rating agency.

Neither the shareholders nor the Board of Directors shall amend, alter, change or repeal Article III, Article XII and Article XIII (collectively, the "Special Purpose Provisions"), or any other provision of this or any other document governing the formation, management or operation of the Corporation in a manner that is inconsistent with any of the Special Purpose Provisions without the unanimous written consent of the Board of Directors (including all Independent Directors) and satisfying the Rating Agency Condition. In the event of any conflict between any of the Special Purpose Provisions and any other provision of this or any other document governing the formation, management or operation of the Corporation, the Special Purpose Provisions shall control."

The Articles are further amended by adding the following as new Article XIII, Definitions.

Notwithstanding any provision of the Articles to the contrary, for as the Loan remains outstanding and is not satisfied in full, the following provisions shall apply:

"Article XIII - Definitions: For purposes hereof, the following terms shall have the following meanings:

ARTICLE XIII – DEFINITIONS

"Bankruptcy Action: means, with respect to any Person, if such Person

- (1) makes an assignment for the benefit of creditors,
- (2) files a voluntary petition in bankruptcy,
- (3) is adjudged a bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings,
- (4) consents to or files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any federal or state statute, law or regulation,
- (5) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding,
- (6) seeks, consents to or acquiesces in the appointment of a trustee, receiver, liquidator, sequestrator, custodian or any similar official of or for such Person or of all or any substantial part of its properties,
- (7) one hundred twenty (120) days after the commencement of any proceeding against such Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed,
- (8) within ninety (90) days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within ninety (90) days after the expiration of any such stay, the appointment is not vacated,
- (9) admits in writing its inability to pay its debts generally as they become due or declare or effect a moratorium on the payment of its debts, or
- (10) takes any action in furtherance of any of the foregoing.

Borrower or Partnership: shall mean MJ Ocala Hotel Associates, Ltd., a Florida limited partnership.

General Partner: shall mean OHI Limited Partnership, a Florida limited partnership.

Independent Director: means a natural person who has at least three (3) years prior employment experience and continues to be employed as an independent director or independent manager by CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company, Lord Securities Corporation or, if none of those companies is then providing professional Independent Directors, another nationally-recognized company that provides such services and which is reasonably approved by Lender, who is not on the board of directors or managers of more than two (2) Affiliates of the Corporation, the General Partner or the Borrower, and who is not, and has never been, and will not while serving as Independent Director be, any of the following:

- (1) a present or future employee, manager, stockholder, equityholder, director, member, partner, officer, advisor, attorney, counsel, agent or consultant of the

Partnership, the General Partner, the Corporation, any Affiliate of either of them or any direct or indirect equityholder of any of them (other than as an Independent Director of an Affiliate of the Partnership, the General Partner or the Corporation that is not in the direct chain of ownership of the Partnership, the General Partner or the Corporation and that is required by a creditor to be a single purpose bankruptcy remote entity, provided that such Independent Director is employed by a company that routinely provides professional Independent Directors or managers,

(2) a present or future creditor, customer of, supplier, service provider (including professional services) or other Person who derives any of its profits, revenues or payments from its activities with the Partnership, the General Partner, the Corporation or any Affiliate of either of them (other than a nationally-recognized company that routinely provides professional Independent Directors and other corporate services to the Partnership, the General Partner, the Corporation or any of their respective Affiliates in the ordinary course of its business),

(3) any partner of the immediate family (including a grandchild or sibling) of a person described in clauses (1) or (2) immediately above, or

(4) a Person controlling or under common control with any of (1), (2), or (3) above. A natural person who otherwise satisfies the foregoing definition and satisfies subsection (1) by reason of being the Independent Director of a "special purpose entity" affiliated with the Corporation, the Partnership or the General Partner shall be qualified to serve as an Independent Director of the Corporation, provided that the fees that such individual earns from serving as Independent Directors of Affiliates of the Corporation in any given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year. As used in this paragraph, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management, policies or activities of such Person, whether through ownership of voting securities or other beneficial interest, by contract or otherwise.

Lender: means CBRE Capital Partners U.S. 1 Holdings, LLC, together with its successors and assigns.

Loan: means that certain loan made by Lender to the Borrower in the original principal amount of \$7,670,000.

Loan Agreement: means that certain Loan Agreement dated as of _____ by and between the Borrower and the Lender.

Rating Agency Condition: shall mean (i) with respect to any action taken at any time before the Loan has been sold or assigned to a securitization trust, that the Lender has consented in writing to such action, and (ii) with respect to any action taken at any time after the Loan has been sold or assigned to a securitization trust, that the Lender has consented to such action and that each Rating Agency shall have been given ten days prior notice thereof and that each of the Rating Agencies shall have notified the Corporation in writing that such action will not result in a reduction, withdrawal, downgrade or qualification of the then current rating by such Rating Agency of the Loan or any pool of loans of which the Loan forms a part, or of any of securities issued by such securitization trust."

3. Except as hereby amended, the Articles of Incorporation of the Corporation, as previously amended, shall remain the same.

MJ Hotels of Ocala, Inc.

By: _____

William A. Meyer, President and Director

By: _____

Richard Jabara, Vice President and Director

By: Michelle Dreyer

Michelle Dreyer, Director

Sole Shareholder:

Meyer Jabara Hotels, LLC

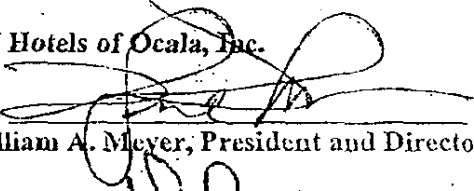
By: _____

William A. Meyer, Manager

By: _____

Richard Jabara, Manager

MJ Hotels of Ocala, Inc.

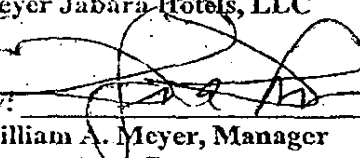
By: 
William A. Meyer, President and Director

By: 
Richard Jabara, Vice President and Director

By: 
Michelle Dreyer, Director

Sole Shareholder:

Meyer Jabara Hotels, LLC

By: 
William A. Meyer, Manager

By: 
Richard Jabara, Manager