

P93000061349

CT CORPORATION SYSTEM

CORPORATION(S) NAME

The Westwind Group, Inc.

FILED
01 APR 12 PM 2: 14
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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-04/02/01--01069--017
***35.00 ***35.00

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| <input type="checkbox"/> Profit | <input checked="" type="checkbox"/> Amendment | <input type="checkbox"/> Merger |
| <input type="checkbox"/> Nonprofit | | |
| <input type="checkbox"/> Foreign | <input type="checkbox"/> Dissolution/Withdrawal | <input type="checkbox"/> Mark |
| | <input type="checkbox"/> Reinstatement | |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Annual Report | <input type="checkbox"/> Other |
| <input type="checkbox"/> LLC | <input type="checkbox"/> Name Registration | <input type="checkbox"/> Change of RA |
| | <input type="checkbox"/> Fictitious Name | <input type="checkbox"/> UCC |
| <input type="checkbox"/> Certified Copy | <input type="checkbox"/> Photocopies | <input type="checkbox"/> CUS |
| <input type="checkbox"/> Call When Ready | <input type="checkbox"/> Call If Problem | <input type="checkbox"/> After 4:30 |
| <input checked="" type="checkbox"/> Walk In | <input type="checkbox"/> Will Wait | <input checked="" type="checkbox"/> Pick Up |
| <input type="checkbox"/> Mail Out | | |

Name _____
 Availability _____
 Document _____
 Examiner _____
 Updater _____
 Verifier _____
 W.P. Verifier _____

4/2/01

Order#: 397190

Ref#: _____

Amount: \$ _____

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01 APR - 2 PM 12: 09
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

660 East Jefferson Street
 Tallahassee, FL 32301
 Tel. 850 222 1092
 Fax 850 222 7615

G. COULLETTE APR 03 2001



FLORIDA DEPARTMENT OF STATE

Katherine Harris
Secretary of State

April 2, 2001

C T CORPORATION SYSTEM

TALLAHASSEE, FL

SUBJECT: THE WESTWIND GROUP, INC.
Ref. Number: P93000061349

We have received your document for THE WESTWIND GROUP, INC. and check(s) totaling \$35.00. However, the enclosed document has not been filed and is being returned to you for the following reason(s):

The date of adoption/authorization of this document must be a date on or prior to submitting the document to this office, and this date must be specifically stated in the document. If you wish to have a future effective date, you must include the date of adoption/authorization and the effective date. The date of adoption/authorization is the date the document was approved.

The document must contain written acceptance by the registered agent, (i.e. "I hereby am familiar with and accept the duties and responsibilities as registered agent for said corporation/limited liability company"); and the registered agent's signature.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6903.

Cheryl Coulliette
Document Specialist

Letter Number: 001A000195

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

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Please back-date

Archie

Jeff

AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

THE WESTWIND GROUP, INC.

The Westwind Group, Inc., a corporation organized and existing under the laws of the State of Florida, hereby certifies as follows:

1. The name of the corporation is The Westwind Group, Inc., (the "Corporation") and the name under which the Corporation was originally incorporated is The Westwind Group, Inc. The original Articles of Incorporation (the "Original Articles of Incorporation") were filed with the Secretary of State on August 30, 1999, and were amended and restated by the filing of the Restated Articles of Incorporation on October 14, 1997 (the "1997 Restated Articles of Incorporation").

2. These Amended and Restated Articles of Incorporation amend, restate, supercede and preempt in all respects the Original Articles of Incorporation and the 1997 Restated Articles of Incorporation and, after the date hereof, the Articles of Incorporation of the Corporation shall mean these Amended and Restated Articles of Incorporation.

3. The text of the Articles of Incorporation is heretofore amended and restated to read as herein set forth in full:

ARTICLE 1

NAME

1.1 The name of the Corporation shall be: **The Westwind Group, Inc.**

ARTICLE 2

REGISTERED OFFICE AND AGENT

2.1 The address of its registered office in the State of Florida is: 1200 South Pine Island, Plantation, Florida. The name of the registered agent is: CT Corporation System.

ARTICLE 3

NOTICES

3.1 The address where the Division may mail notices: Attention: Stephen O. LaBreche at The Westwind Group, Inc., 12555 High Bluff Drive, Suite 120, San Diego, California 92130.

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TALLAHASSEE, FLORIDA

ARTICLE 4

CAPITAL SHARES

4.1 Authorized Shares. The aggregate number of capital shares which the Corporation shall have the authority to issue is 1,000 shares. The issuance and transfer of stock of the Corporation is restricted. Stock may be issued or transferred only after authorization by Burger King Corporation in accordance with the terms and conditions outlined in the franchise agreement with Burger King Corporation.

4.2 Par Value. The shares shall be without par value, except that the shares shall have a par value of one cent per share solely for the purpose of statutes or regulations imposing a tax or fee based upon the capitalization of the Corporation, and shall have a par value fixed by the Board of Directors for the purpose of other statutes or regulations requiring the shares of the Corporation to have a par value.

4.3 Cumulative Voting Denied. There shall be no cumulative voting for directors.

4.4 Preemptive Rights Denied. No holder of any shares of the Corporation shall be entitled, as a matter of right, to any preferential, preemptive, or other rights to purchase any new or additional shares of the Corporation of any class or series, or any options, warrants or rights to purchase, subscribe for, or otherwise acquire, any such new or additional shares, or any shares, bonds, notes, debentures, or other securities convertible into or carrying options, warrants, or rights to purchase, subscribe for, or otherwise acquire any such new or additional shares.

4.5 Voting. The shareholders shall take action by the affirmative vote of the holders of a majority of the voting power of the shares present at a duly held meeting and entitled to vote, except where a larger proportion or number is required for a particular action by the Articles of Incorporation or Bylaws of the Corporation or by the laws of the State of North Carolina.

ARTICLE 5

DIRECTORS

5.1 Majority Vote. The Board of Directors shall take action by the affirmative vote of a majority of directors present at a duly held meeting subject to the requirements of the Section 8.1 hereof, except where the affirmative vote of a larger proportion or number of directors is required by the Article of Incorporation or the Bylaws of the Corporation, or by the laws of the State of North Carolina.

5.2 Action Without Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting by written action that is, or counterparts of which in the aggregate are, signed by the number of directors that would be required to take the same action at a meeting of the Board at which all directors entitled to vote were present, except as to those matters which require shareholder approval, on which matters the written action shall be signed by all members of the Board of Directors then in office.

5.3 Limitation of Director Liability. A director of the Corporation shall not be personally liable to the Corporation or to its shareholders for monetary damages for any breach of fiduciary duty as a director to the fullest extent permitted by the Florida Statutes. If the Florida Statutes are amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director to the Corporation, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended Florida Statutes. Any repeal or modification of this Section 5.3 by the shareholders of the Corporation shall be prospective only and shall not adversely affect any limitation on the personal liability of, or any right or protection as, a director of the Corporation existing at, or with respect to any act or omission which occurred prior to, the date of such repeal or modification.

ARTICLE 6

PURPOSE AND POWERS

6.1 The Corporation is organized solely for the purpose of operating Burger King restaurants. The Corporation shall possess all power necessary to conduct business in connection with the stated purpose for which it is organized, including but not limited to, all those powers expressly conferred upon business corporations by the Florida Statutes, as the same may from time to time be amended, together with those powers implied therefrom.

ARTICLE 7

INDEMNIFICATION

7.1 Directors, officers, employees, and agents of the Corporation shall be indemnified to the maximum extent permitted by applicable Florida law, as the same exists or may hereafter be amended, for expenses and liabilities arising by reason of their position with, or by acts in such capacities on behalf of, the Corporation or another corporation which they may serve at the request of the Corporation. Any obligation of the Corporation for indemnification of an officer, employee or agent of the Corporation who holds, directly or indirectly, a 10% or greater equity interest in the Corporation, and any obligation of the Corporation for indemnification of a Director of the Corporation arising out of any claim against such Director for actions taken in his or her capacity as a Director of the Corporation and in contravention of the covenants set forth in Section 8.1 hereof, including the breach by such Director of his or her fiduciary duty to creditors of the Corporation pursuant to Section 8.1(f) hereof, shall be subordinate to any obligation of the Corporation under the Restructuring Agreement.

ARTICLE 8

OTHER COVENANTS

8.1 So long as any obligations to BVFMAC or to BVFMAC on behalf of the various lenders named in the Restructuring Agreement are outstanding under the Restructuring Agreement:

- a. The Corporation shall not incur or assume any indebtedness or create any

liens other than permitted by the Restructuring Agreement;

b. The Corporation shall comply with all covenants set forth in the Restructuring Agreement;

c. The Corporation shall observe all applicable corporate formalities, including separate and regular meetings of its Board of Directors, and shall maintain minutes of all such meetings; provided, that the Board of Directors of the Corporation may take action by unanimous written consent in lieu of a meeting to the fullest extent permitted by applicable law;

d. The Corporation shall not engage in any dissolution, liquidation, consolidation, merger, or sale of all or substantially all of its assets without the unanimous affirmative vote in favor thereof by the entire Board of Directors (including the Independent Director), except as otherwise permitted by the Restructuring Agreement;

e. Notwithstanding anything to the contrary set forth elsewhere in these Articles of Incorporation or in the Bylaws of the Corporation, the Corporation shall not amend or repeal any provision of these Articles of Incorporation or the Bylaws of the Corporation without the unanimous affirmative vote in favor thereof by the entire Board of Directors of the Corporation (including the Independent Director), except as otherwise permitted by the Restructuring Agreement);

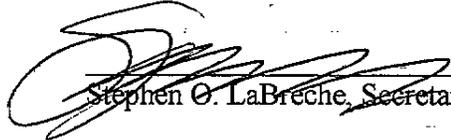
f. The Corporation shall not voluntarily commence a case or consent to the filing of such a case with respect to itself under the United States Bankruptcy Code or any similar federal or state statute without the unanimous affirmative vote in favor thereof by the entire Board of Directors (including the Independent Director), or as otherwise permitted by the Restructuring Agreement, and the Independent Director shall have a fiduciary duty to creditors of the Corporation and shall be required to consider the interests of creditors of the Corporation in connection with any decision or action with respect to the filing of a petition for bankruptcy on behalf of the Corporation;

g. The Corporation shall maintain its valid existence and good standing in the state of its incorporation and shall remain qualified to conduct business under applicable law in each state in which Collateral (as defined in the Restructuring Agreement) owned by the Corporation and subject to the Restructuring Agreement is located.

8.2 These Amended and Restated Articles of Incorporation was duly adopted by written consent of the stockholders in accordance with the applicable provisions of Florida law.

8.3 These Amended and Restated Articles of Incorporation shall be effective on March 28, 2001.

IN WITNESS WHEREOF, I have subscribed my name this 28th day of March 2001.



Stephen O. LaBreche, Secretary

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HAVING BEEN NAMED AS REGISTERED AGENT AND TO RECEIVE SERVICE OF
PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED
IN THESE PROVISIONS, I HEREBY ACCEPT THE APPOINTMENT AS
REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER
AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO
THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM
FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS
REGISTERED AGENT.

DATE: 4-3-01

CT CORPORATION SYSTEM

BY: Connie Bryan

Connie Bryan,
Special Assistant Secretary