

P93000064470

Florida Department of State
Division of Corporations
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From: Account Name : KRASNY AND DETIMER
Account Number : 102771002615
Phone : (321) 723-5646
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DIVISION OF CORPORATIONS

MERGER OR SHARE EXCHANGE

MATTRESS BARN, INC.

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

ARTICLES OF MERGER
Merger Sheet

MERGING:

DISCOUNT MATTRESS BARN, INC., a Florida corporation, document number
P97000005753

INTO

MATTRESS BARN, INC., a Florida entity, P93000064470

File date: December 30, 2002, effective January 1, 2003

Corporate Specialist: Karen Gibson



FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

December 30, 2002

MATRESS BARN, INC.
581 CIDCO RD
COCOA, FL 32926US

SUBJECT: MATRESS BARN, INC.
REF: P93000064470

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.

The articles of merger you submitted were prepared in compliance with section 607.1109, Florida Statutes. Articles of Merger between two or more domestic profit corporations are filed pursuant to section 607.1105, Florida Statutes.

For each corporation, the document must contain the date of adoption of the plan of merger or share exchange by the shareholders or by the board of directors when no vote of the shareholders is required.

SINCE THE WORDING OF 1.5 STATES THAT THE PLAN OF MERGER IS ATTACHED HERETO AS EXHIBIT A, IT MUST BE SO ATTACHED.

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) 245-6880.

Karen Gibson
Document Specialist

FAX Aud. #: H02000241578
Letter Number: 102A00067812

Division of Corporations - P.O. BOX 6327 Tallahassee, Florida 32314

KRASNY AND DETTMER
A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS
ATTORNEYS AND COUNSELORS AT LAW

THE RIVERFRONT BUILDING
304 S. HARBOR CITY BOULEVARD, SUITE 201
MELBOURNE, FLORIDA 32901-4324
TELEPHONE (321) 723-5646
TELECOPIER (321) 768-1147
<http://www.krasnydettmr.com>

MIKE KRASNY*
mkrasny@cfl.ri.com
DALE A. DETTMER*
ddettmr@krasnydettmr.com
SCOTT KRASNY*
skrasny@krasnydettmr.com

*FLORIDA SUPREME COURT CERTIFIED
MEDIATOR-ARBITRATOR
*BOARD CERTIFIED IN TAXATION
*ALSO CERTIFIED PUBLIC ACCOUNTANT
*ADMITTED COLORADO BAR

February 13, 2003

Karen Gibson, Document Specialist
Florida Department of State
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

Re: Mattress Barn, Inc.
Ref: P93000064470

Dear Ms. Gibson:

Enclosed are the revised Articles of Merger filed in accordance with your letter dated December 30, 2002, a copy of which is attached. We would appreciate you filing these Articles of Merger as soon as possible with an effective date of January 1, 2003.

Thank you very much for your prompt attention to this matter. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

KRASNY AND DETTMER



Scott Krasny

SK/kt
Enc.

**ARTICLES OF MERGER
OF
DISCOUNT MATTRESS BARN, INC.,
a Florida Corporation
WITH AND INTO
MATTRESS BARN, INC.
a Florida Corporation**

RECEIVED
1-1-03

FILED
02 DEC 30 AM 10:42
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned, **MATTRESS BARN, INC.**, a Florida corporation ("MB") and **DISCOUNT MATTRESS BARN, INC.**, a Florida corporation ("DMB"), pursuant to the provisions of Section 607.1105, Florida Statutes, hereby certify in connection with the merger of DMB into MB that:

1. Plan of Merger.

1.1 The name and state of filing for each of the constituent entities to the merger is as follows:

MATTRESS BARN, INC. (herein MB), a Florida corporation, having a Florida document/registration number: P93000064470. The FEI number is 59-3201683.

DISCOUNT MATTRESS BARN, INC. (herein DMB), a Florida corporation, having a Florida document/registration number: P97000005753. The FEI number is 59-3425003.

1.2 Upon filing of these Articles of Merger, DMB shall be merged into MB, with MB being the surviving entity of the merger and the separate corporate existence of DMB shall cease. All property, rights, privileges, policies and franchises of DMB shall vest in MB and debts, liabilities and duties of DMB shall become the debts, liabilities and duties of MB as provided in the Agreement and Plan of Merger between MB and DMB.

1.3 Every ten shares of the issued and outstanding common stock of DMB shall, upon filing of these Articles of Merger, be automatically converted into one share of the common stock of MB.

1.4 The name, street address of its principal office, jurisdiction and entity type of the surviving entity is as follows:

**MATTRESS BARN, INC.,
A Florida Corporation
581 Cidco Road
Cocoa, FL 32926**

1.5 The Agreement and Plan of Merger is attached hereto as Exhibit "A" and by this reference incorporated herein.

2. These Articles of Merger shall be effective on January 1, 2003.

3. The Plan of Merger has been approved, adopted, certified, executed and acknowledged by (a) the directors of DMB at a special meeting of the board of directors and (b) the shareholders of DMB by unanimous written consent on December 17, 2002.

4. The Plan of Merger has been approved, adopted, certified, executed and acknowledged by (a) the directors of MB at a special meeting of the board of directors and (b) the shareholders of MB by unanimous written consent on December 17, 2002.

5. The merger contemplated herein is permitted under the laws of the State of Florida and is not prohibited by the Articles of Incorporation of MB or the Articles of Incorporation of DMB.

IN WITNESS WHEREOF, each of the undersigned has made and subscribed to these Articles of Merger, this 17th day of December, 2002.

MATTRESS BARN, INC., a Florida Corporation

By: 

RONALD D. BOLDING, President

DISCOUNT MATTRESS BARN, INC., a Florida corporation

By: 

RONALD D. BOLDING, President

AGREEMENT AND PLAN OF MERGER

This Agreement dated this 17th day of December, 2002, by and between **MATTRESS BARN, INC.**, a Florida Corporation ("MB") and **DISCOUNT MATTRESS BARN, INC.**, a Florida corporation ("DMB").

RECITALS:

A. The Board of Directors and Shareholders of DMB and the Board of Directors and Shareholders of MB deem it advisable and in the best interest of each entity that DMB be merged with and into MB, with MB being the surviving entity, pursuant to Section 607.1105, Florida Statutes, and upon the terms and conditions set forth in this Agreement; and

B. The Board of Directors and Shareholders of DMB have approved the merger of DMB into MB; and

C. The Board of Directors and Shareholders of MB have approved the merger of DMB into MB; and

D. MB and DMB otherwise desire to merge upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I MERGER

1.1 DMB shall be merged with and into MB in accordance with the laws of the State of Florida. The separate corporate existence of DMB shall thereby cease, and MB shall be the surviving entity.

1.2 The name which the surviving entity following the merger shall be: **MATTRESS BARN, INC.**, a Florida Corporation, having a Florida document/registration number of P93000064470. The President of **MATTRESS BARN, INC.** is and shall remain **RONALD D. BOLDING**, whose business address is 581 Cidco Road, Cocoa, FL 32926.

1.3 The effective date ("Effective Date") of the merger shall be January 1, 2003.

Exhibit A

1.4 Except as otherwise herein set forth, from and after the Effective Date, MB, the surviving entity, shall possess all rights, privileges, immunities and franchises, to the extent consistent with the partnership agreement, of the merged entities. All of the rights, privileges, powers and franchises of DMB, of a public as well as of a private nature, and all property, real, personal and mixed of DMB, and all debts due it on whatever account, including all causes of action and all and every other interest of it or belonging to it, shall be taken by and deemed to be transferred to and vested in MB without further act or deed; and all such property, rights, privileges, immunities and franchises, of a public as well as of a private nature, and all and every other interest of the DMB shall thereafter be as effectually the property of MB as was the case for DMB.

1.5 From and after the Effective Date, MB shall be subject to the duties and liabilities of a corporation organized under the laws of the State of Florida and shall be liable and responsible for all the liabilities and obligations of the merged entities. The rights of the creditors of the merged entities, or of any person dealing with such entities, or any liens upon the property of such entities, shall not be impaired by this merger, and any claim existing or action or proceeding pending by or against either of such entities may be prosecuted to judgment as if this merger had not taken place, or MB may be proceeded against or substituted in place of DMB. Except as otherwise herein set forth, the identity, existence, purposes, powers, franchises, rights, immunities and liabilities of MB shall continue unaffected and unimpaired by the merger.

ARTICLE II TERMS AND CONDITIONS OF THE MERGER

The terms and conditions of the merger shall be as follows:

2.1 The merger shall become effective upon the Effective Date.

2.2 Prior to the Effective Date, the merging entities shall take all such action as shall be necessary or appropriate in order to effect the merger. If at any time after the Effective Date, the parties hereto shall determine that any further conveyance, assignment or other documents or any further action is necessary or desirable in order to vest in, or conform to, the vesting of full title to all of the property, assets, rights, privileges and franchises of the merging entities, or either of them into MB, each party agrees to execute and deliver such instruments and take all such further actions as may be necessary or desirable in order to vest in and confirm to MB title to and possession of all such property, assets, rights, privileges, immunities and franchises, and otherwise to carry out the purposes of this agreement.

**ARTICLE III
CONVERSION OF OWNERSHIP INTEREST**

3.1 Upon the Effective Date, each ten shares of the issued and outstanding common stock of DMB shall be converted into one share of MB common stock.

**ARTICLE IV
ASSUMED LIABILITIES, INDEMNIFICATION**

4.1 As of the Effective Date, MB shall become and be fully liable and responsible for the liability and obligations of DMB ("Assumed Liabilities").

4.2 DMB shall pay and does hereby agree to indemnify and hold MB harmless from any and all claims, demands, liens, obligations, indebtedness, damages, debts, liabilities, accounts, actions, causes of action, costs or expenses, at any time existing or asserted whether known, unknown, fixed, contingent or otherwise not specifically assumed herein by MB. This indemnification shall survive the merger contemplated by this Agreement.

**ARTICLE V
MISCELLANEOUS**

5.1 This Agreement shall be binding on and shall inure to the benefit of the parties and their respective heirs, devisees, legal representatives, successors, and permitted assigns.

5.2 In connection with any dispute arising under, from, or as a result of this Agreement, the parties agree that the prevailing party or parties shall be entitled to recover all costs or expenses incurred, including reasonable attorneys' fees and fees for the services of accountants, paralegal, legal assistants, and similar persons (including any appeals from any litigation and enforcement of judgments).

5.3 This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by the party against whom the enforcement is sought.

5.4 Any notice, demand, request, consent or other instrument which may be or is required to be given under this Contract shall be in writing and either served personally or sent by United States registered or certified mail, return receipt requested, postage prepaid, or deposited with a reputable overnight courier service such as Federal Express, and addressed to such party at its address set forth below, or when transmitted by facsimile transmission to the respective parties at the numbers specified below, or at such other place as either party may designate by written notice to the other. Any written notice sent by mail should be deemed to have been served as of the next regular day for delivery or mail after the date it was mailed in accordance with the foregoing provisions. For purposes of this Agreement, notice shall be sent as follows:

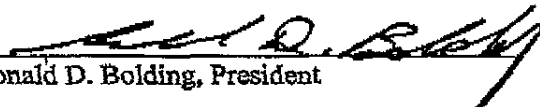
To DMB: Ronald D. Bolding, President
of Discount Mattress Barn, Inc.
581 Cidco Road
Cocoa, FL 32926

To MB: Ronald D. Bolding, President
of Mattress Barn, Inc.
581 Cidco Road
Cocoa, FL 32926

5.5 This Agreement and Plan of Merger has been approved, adopted, certified, executed and acknowledged by the directors and the shareholders of DMB and the directors and shareholders of MB by unanimous written consent.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first stated above.

MATTRESS BARN, INC., a Florida Corporation

By: 
Ronald D. Bolding, President

DISCOUNT MATTRESS BARN, INC., a Florida Corporation

By: 
Ronald D. Bolding, President